

RESOLUTION NO. 2008-117

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI  
ADOPTING FINDINGS IN RESPONSE TO WRITTEN OBJECTIONS  
TO ADOPTION OF THE REDEVELOPMENT PLAN FOR THE  
LODI COMMUNITY IMPROVEMENT PROJECT

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WHEREAS, the Redevelopment Agency of the City of Lodi (the "Agency") has formulated and prepared a Redevelopment Plan for the Lodi Community Improvement Project (the "Plan"); and

WHEREAS, the City Council and the Agency held on May 28, 2008, a joint public hearing on the adoption of the proposed Plan and certification of the Final Environmental Impact Report (the "Final EIR") on the Plan; and

WHEREAS, the City Council has provided an opportunity for all persons to be heard and has considered all written comments received and all evidence and testimony presented for or against any and all aspects of the Plan; and

WHEREAS, Section 33363 of the Community Redevelopment Law provides that, before adopting the Plan, the City Council shall make written findings in response to each written objection, if any, received from an affected taxing entity or property owner received before or at the noticed public hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LODI DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1: The written objections from affected property owners and affected taxing agencies to the adoption of the Redevelopment Plan for the Lodi Community Improvement Project are hereby overruled for the reasons detailed in the written responses attached hereto as part of Attachment No. 1 and by this reference are incorporated herein.

SECTION 2: The written responses attached hereto as Attachment No. 1 are hereby adopted as the written findings of the City Council in response to the written objections received from affected property owners and affected taxing agencies.

SECTION 3: The City Clerk is hereby directed to transmit certified copies of this Resolution including the written responses attached hereto as Attachment No. 1 to the objectors by first class mail, postage prepaid.

Dated: June 18, 2008

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I hereby certify that Resolution No. 2008-117 was passed and adopted by the City Council of the City of Lodi in a regular meeting held June 18, 2008, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, and Katzakian

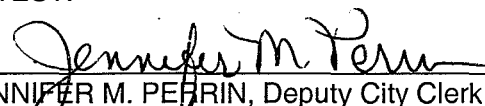
NOES: COUNCIL MEMBERS – Mayor Mounce

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – Hitchcock

  
JOANNE MOUNCE, Mayor

ATTEST:

  
JENNIFER M. PERRIN, Deputy City Clerk

## ATTACHMENT NO. 1

### RESPONSE TO WRITTEN OBJECTIONS REGARDING THE PROPOSED PLAN FOR THE LODI COMMUNITY IMPROVEMENT PROJECT

#### I. Introduction

On May 28, 2008, the City Council and Redevelopment Agency of the City of Lodi held a joint public hearing to consider adoption of the proposed Plan for the Lodi Community Improvement Project (“Redevelopment Plan”).<sup>1</sup> Following a staff report, testimony was given by several speakers, both in favor of and opposed to the adoption. Prior to the time set for the hearing, eight written objections were received by the Lodi City Clerk. Section 33364 of the California Community Redevelopment Law, Health and Safety Code Section 33000, *et seq.* (“Redevelopment Law”), at Sections 33363 and 33364 thereof,<sup>2</sup> provides that if written objections to the adoption of a redevelopment plan are received, written responses are to be prepared and considered by the legislative body not earlier than one week after such written objections were presented. This Response to Written Objections Regarding the Proposed Plan for the Lodi Community Improvement Project is intended to provide a considered response to each of the written objections received by the Lodi City Clerk prior to the hearing, as provided by Section 33363 of the Redevelopment Law.

The following sections describe the constitutional and statutory framework of the Redevelopment Law and the applicable evidentiary standard. Then, each written objection to the proposed Redevelopment Plan received by the Lodi City Clerk is set forth and followed by a written analysis and response to such written objection based on the evidence in the record before the Lodi City Council, including the *Report to City Council for the Lodi Community Improvement Project* (the “Report to Council”), as transmitted by the Redevelopment Agency of the City of Lodi (the “Agency”) to the City Council. The Report to Council was primarily compiled by GRC Redevelopment Consultants and Fraser & Associates. Resumes of persons at GRC Redevelopment Consultants and Fraser & Associates that were involved in the preparation of the Report to Council are set forth at Exhibit A.

#### II. Constitutional and Statutory Framework

Redevelopment, including tax increment financing for redevelopment, was included in the California Constitution by voter-approved initiative in 1952. The proposition that redevelopment is a public purpose is long-established in California (see, for example, the California Supreme Court decision *In Re Bunker Hill* (1964) 61 Cal. 2d 21). The Legislature has provided authority for “communities”, mainly cities and counties (see Section 33002 of the Redevelopment Law, providing the definition of “community”) to

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<sup>1</sup> A video of the May 28, 2008 joint public hearing is attached hereto as Exhibit J and incorporated herein.

<sup>2</sup> The full text of Sections 33363 and 33364 is attached hereto in Exhibit I and incorporated herein.

activate redevelopment agencies and to adopt and amend redevelopment projects **and** project areas.

The funding source for redevelopment agencies in California is “tax increment.”<sup>3</sup> Briefly, tax increment is that portion of property tax generated within an identified redevelopment project area from increases in assessed value of that area over a starting point, or “base roll.” **Taxing** agencies, such as the County, continue to receive their share of base roll revenues. However, redevelopment law provides for the re-allocation of revenues attributable to increases in assessed value above the base—such revenues constituting “tax increment revenues” (or ‘tax allocation revenues’>—as the funding mechanism for redevelopment activities (see, for example, Section 33670 of the Redevelopment Law).<sup>4</sup>

The Legislature has prescribed a series of findings which *are* to be made by the host city council in order for a redevelopment plan to be adopted by that city.<sup>5</sup> It is within the authority of the city council of a city to consider the adoption of a redevelopment plan and whether there is substantial evidence in the record to support findings which are required for the adoption of a redevelopment plan. In the case of *Fosselman’s v. City of Alhambra*, the City Council of the City of Alhambra had adopted certain findings and had proceeded to adopt a redevelopment plan for a portion of the City of Alhambra. Various private parties, as well as the County of Los Angeles, challenged the validity of the adoption of that redevelopment **plan** in the California Superior Court. The trial court ruled in favor of the City of Alhambra, upholding the adoption of the redevelopment plan. The County did not participate in the appeal, but private plaintiffs did. On appeal, the Court upheld the trial court’s determination and upheld the validity of the adoption of the redevelopment plan by Alhambra. In so doing, the Court stated: “In the Community Redevelopment Law the Legislature delegated to the agency and the city council the power to determine blight as well as the power to adopt and implement redevelopment plans.. . (citations omitted); the acts of the agency and the city council in carrying out such functions have been termed ‘legislative.’”<sup>6</sup> The same decision states: “The substantial evidence standard, not the independent exercise of the court’s judgment, governs judicial review of the findings **and** determinations of **an** agency and legislative body in the adoption and approval of a redevelopment plan.”<sup>7</sup>

The Court’s ruling in *Fosselman’s*, **and** its rationale, are particularly apposite relative to the matter before the Lodi City Council: a proposed plan adoption, with the interposition of written objections. **As** was the case in Alhambra, the ability of a city to adopt or amend a redevelopment plan is within the purview of the City Council of the host city; consent of other governmental agencies and individual citizens is not required. In

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<sup>3</sup> Report to Council, pages 123-128 and the draft Plan for the Lodi Community Improvement Project at pages 31-35.

<sup>4</sup> The use of tax increment financing is very common in *California* and is found in the communities of Tracy, Stockton and Manteca within San Joaquin County. See Appendix A of the State Controller’s Report (defined below), **an excerpt of which** is attached as Exhibit B.

<sup>5</sup> See Section 33367 of the Redevelopment Law; see also *Fosselman’s v. City of Alhambra* (1986) 178 Cal.App.3d 806.

<sup>6</sup> See *Fosselman’s* at page 811.

<sup>7</sup> *Fosselman’s* at page 810.

considering evidence, the “substantial evidence test” applies.<sup>8</sup> What is required for a plan adoption is that the city make various findings (see, for example Section 33367 of the Redevelopment Law; a full copy of the text of Section 33367 is set forth at Exhibit I, attached hereto and incorporated herein) and that the findings be supported by substantial evidence (*see Fosselman’s v. Alhambra*; and *see Evans v. San Jose* (2005) 128 Cal. App. 4th 1123, which is discussed below). Where there may be conflicting evidence, it is not for third parties, such as individual citizens within a community, to resolve those evidentiary conflicts; nor is it the province of individual citizens to weigh the sufficiency of evidence; that function has been allotted to the host city council (namely, in this case, the City Council of the City of Lodi) in connection with the pending redevelopment plan adoption.<sup>9</sup> In weighing evidence, the City Council may consider relevance, specificity, credibility, reliability, experience and other factors to determine the weight to be given to various evidence—the City Council has the authority to assign greater weight to certain evidence and less weight to other evidence.”

The basic approach illustrated by *Fosselman’s* was applied in the recent case of *Evans v. San Jose*, *supra*, upholding the adoption of a new redevelopment project area in San Jose over objection that there **was** not substantial evidence in the record to support the City Council’s findings, including a finding of blight.” The *Evans* decision follows the principles and approach set forth in the *Fosselman’s* case. In *Evans*, the plaintiff challenged the adoption, in 2002, of a redevelopment plan by the City of San Jose and the Redevelopment Agency of the City of San Jose (collectively, “San Jose”). The Superior Court decided in favor of San Jose. On appeal, the plaintiff contended that there was not substantial evidence in the record to support the City Council’s findings of blight.<sup>12</sup> The reviewing court found in favor of San Jose, determining that the finding of blight was supported by substantial evidence.

<sup>8</sup> Briefly, substantial evidence means “evidence of ponderable legal significance”; “enough relevant information and reasonable inferences from this information that a fair argument **can** be made to support a conclusion even **though** other conclusions might also be reached”; evidence that is “...reasonable in nature, credible, and of solid value.. .” The foregoing excerpts are from *Friends of Mammoth v. Town of Mammoth Lakes Redevelopment Agency* (2002) 82 Cal. App. 4th 511, 537-538), *San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal. App. 4th 656, 675, and *Estate of Teed* (1952) 112 Cal. App. 2d 638, 644, respectively. See discussion in Part III, *infra*.

<sup>9</sup> “In applying substantial evidence review, a court may not weigh the evidence; rather, we **Simply** determine whether the record contains substantial evidence to support the agency’s decision. [I]f there are conflicts in the evidence, their resolution is for the agency.” *Moss v. County of Humboldt* (2008) 162 Cal. App. 4th 1041 (citations omitted; alteration in original). See footnotes 9 and 11.

<sup>11</sup> In *Evans*, the **Court of Appeal** wrote: “The scope of judicial review **of an** agency’s decision to adopt a redevelopment **plan** is quite limited. Both the trial court and this court review the administrative record to determine whether **the** findings and decision of the legislative body are supported by substantial evidence. (citation omitted) In the application of this standard, ‘[t]he decisions of the agency are...given substantial deference and presumed correct.’ (citation omitted) ‘[T]he reviewing court **must** resolve reasonable doubts in favor of the administrative findings and determination.’ (citation omitted). And where conflicting inferences can be drawn **from** the evidence, we accept all reasonable inferences supporting the administrative findings. (citation omitted)” (*Evans*, at pp. 1145-1146).

<sup>12</sup> *Evans*, page 1130.

The redevelopment project area at issue in *Evans* consisted of six noncontiguous areas totaling approximately 10,456 acres.<sup>13</sup> In contrast, Lodi's proposed Redevelopment Project Area (herein, the "Project Area") consists of approximately 2,000 acres.<sup>14</sup> While not addressed in the *Evans* opinion, the median income for a family of four in the County of Santa Clara (in which the City of San Jose is located), as shown in median income data published by the California Department of Housing and Community Development dated as of February 25, 2005, was \$105,500.<sup>15</sup> The median income (for a family of four) in the County of San Joaquin for the same year was \$55,300. This provides one economic comparison between the two areas.

Similar to the pending Lodi process, a portion of the area which had been proposed for inclusion within the territory being added as a project area was deleted – in the case of San Jose – "...just prior to the adoption of the...Plan."<sup>16</sup>

Concerning the evidence in the record offered by the consultant employed by San Jose, the plaintiff criticized the inclusion of local code violations as evidence of blight and generally questioned the methodology used by the consultant.<sup>17</sup> In commenting upon information adduced by the consultant and presented before the City Council of San Jose, the Court noted that information concerned such matters as:

- infrastructure deficiencies in the Project Area;<sup>18</sup>
- code violations;<sup>19</sup>
- "site deficiencies, such as unpaved or overpaved driveways, improper storage of materials, fence deterioration, broken or missing sidewalks, curbs and gutters and excessive or deteriorated signage";<sup>20</sup>
- incompatible uses, irregularly shaped lots;<sup>21</sup> and
- inadequate public improvements, including deteriorated street, storm sewer and sanitary sewer systems.<sup>22</sup>

The staff of GRC Redevelopment Consultants has extensive experience in the area of redevelopment and describing and documenting conditions within proposed redevelopment project areas.<sup>23</sup> Much time and effort has gone into the collection of evidence for the Report to Council and the record which will be considered by the Lodi

<sup>13</sup> *Evans*, page 1134.

<sup>14</sup> *Report to Council*, page 1.

<sup>15</sup> See *Income Limits* on the website of the California Housing and Community Development Department.

<sup>16</sup> *Evans*, page 1141.

<sup>17</sup> *Evans*, page 1144.

<sup>18</sup> *Evans*, page 1146.

<sup>19</sup> *Evans*, page 1148.

<sup>20</sup> *Evans*, page 1149.

<sup>21</sup> *Evans*, page 1149.

<sup>22</sup> *Evans*, page 1151.

<sup>23</sup> See Exhibit A, attached hereto and incorporated herein, containing resumes of the GRC Redevelopment Consultants staff people who prepared the Report to Council, as well as the resume of Don Fraser of Fraser & Associates, who assisted with the preparation of the Report to Council.

City Council when it makes its decision whether to adopt the proposed Redevelopment Plan for the Lodi Community Improvement Project. As described in pages 25 through 105 of the Report to Council, the record before the Lodi City Council is replete *with* specific, documented examples of the occurrence and pervasiveness of similar features within the proposed Project Area.

### III. The Substantial Evidence Test

The Report to the City Council and all other evidence and documentation in the record before the Lodi City Council, including the testimony received at the joint public hearing, contains information concerning the Project Area. In order for the City Council to adopt ~~an~~ ordinance approving a redevelopment plan, the City Council is required to make certain findings (as set forth in Section 33367 of the Redevelopment Law), which findings must be supported by substantial evidence in the record. The Project Area must exhibit both physical and economic characteristics which cause blight, as defined in Section 33031 of the Redevelopment Law, and be predominantly urbanized and the combination of physical and economic conditions set forth in Section 33031 of the Redevelopment Law must be so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such ~~an~~ extent that it constitutes a serious physical ~~and~~ economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.<sup>24</sup>

Substantial evidence is defined as “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.”<sup>25</sup> The evidence “must be reasonable in nature, credible and of solid value; it must actually be ‘substantial’ proof of the essentials which the law requires in a particular case.”<sup>26</sup>

### IV. Response to Written Objections to the Proposed Redevelopment Plan

Each of the written objections to the proposed Redevelopment Plan is set forth below. The statements in each writing are then separated into areas of concern, which are then responded to individually; this format is intended to provide a more meaningful response and to ensure that each objection or item of concern is fully and meaningfully addressed.

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<sup>24</sup> Conditions of blight and ~~their~~ extent are described in Sections 33030 and 33031 of the Redevelopment Law. Report to Council, pages 9-11; *see also* Exhibit I.

<sup>25</sup> *San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal. App. 4th 656, 675.

<sup>26</sup> *Friends of Mammoth v. Town of Mammoth Lakes Redevelopment Agency* (2000) 82 Cal. App. 4th 511, 537–538 [superseded by statute on another issue].

NOTICE OF OPPOSITION TO:  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI  
APPROVING AND ADOPTING THE REDEVELOPMENT PLAN FOR  
THE LODI COMMUNITY IMPROVEMENT PROJECT

RECEIVED

MAY 28 2008 PM 1:34  
CITY CLERK  
CITY OF LODI

Forming a RDA is nothing new. There are so many communities in California involved with RDA's that their combined debt is now a staggering \$81 Billion. Some of these communities are in so deep they can barely hold their head above water. Some, I am told, may be drowning. When the Lodi City Council last tried to implement this RDA idea, concerned citizens signed a petition in sufficient numbers that the matter was dropped. That council understood the meaning of no. This one decided what they want to accomplish for their own reasons and do not take no for an answer. They simply try again. This time, in order to get more people behind this proposition the council has resorted to making promises to many interests to get more approval. The information is deliberately vague and without a cost figure.

At the last meeting I attended, Mr. Blair King, when pressed for particulars stated, "We have here a theoretical scenario." He tried to make it sound wonderful. He was telling us the absolute truth when he referred to all the information he was giving us as theoretical. The truth is in the dictionary meaning of the word theoretical. Theoretical means; conjectural (surmised - as opposed to fact), hypothetical, speculative, and suppositional, (opinion, guess, suspicion). The truth is in the reality that a RDA, by law, cannot exist unless it incurs debt. It is a debt machine.

We can not pay our debt now and they want to create a bureaucracy that has the power to borrow and put us even further in debt for longer than many of our life expectancies. I am expected to live within my means. If I have spent my income I do not reach for a credit card to create an even bigger problem for tomorrow. We want our leaders to let our town live within its means and quit squandering large sums of city money that it can not afford in order to gain their own ends.

Jerold E. Kyle  
327 DEL MONT ST  
LODI, CA 95242

**Writing A:**

Jerold E. Kyle, 327 Del Mont Street, Lodi, California 95242;  
NOTICE OF OPPOSITION TO: AN ORDINANCE OF THE  
CITY COUNCIL OF THE CITY OF LODI APPROVING AND  
ADOPTING THE REDEVELOPMENT PLAN FOR THE LODI  
COMMUNITY IMPROVEMENT PROJECT, received by the City  
Clerk of the City of Lodi on May 28, 2008.

**Comment No. I:**

*Forming a RDA is nothing new. There are so many communities in California involved with RDA's that ~~their~~ combined debt ~~is~~ now a staggering \$81 Billion. Some of these communities are in so deep they can barely hold their head above water. Some, I am told, may be drowning.*

**Response No. 1:**

The statement manifests some confusion in that debts of redevelopment agencies are not debts of the host cities.

It is true that redevelopment agencies are funded through the incurrence of debt. This is a function of a state constitutional amendment (Article XVI, Section 16) that was approved in 1952 **by** the voters. That Section, which is also found in Section **33670** of the Redevelopment Law, states as follows:

*That portion of the levied taxes each year in excess of that amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed **or** otherwise) incurred by the redevelopment agency to finance or refinance, in **whole** or in part, the redevelopment project.*

The source for the "\$81 billion" figure referred to above appears to **be** from Statement of Indebtedness ("SOI") section of the *Community Redevelopment Agencies Annual Report (State Controller's Report)*, dated May 20, 2007 and compiled by the California State Controller's Office (herein, the "State Controller's Report"), a portion of which is attached hereto as Exhibit B and incorporated herein. It is also important to understand that redevelopment agency debt, as shown on the **SOI**, can take many forms. The chart below shows the various forms of indebtedness for redevelopment agencies as shown in the State Controller's Report.

Statement of Indebtedness (Amounts in thousands)		
	2005-06	%
Tax Allocation Bond Debt	\$26,261,490	32.54%
Revenue <b>Bond</b> Debt	2,943,687	3.65%
Other <b>Long-Term</b> Debt	6,273,424	7.77%
<b>Advances</b> from City/County	7,169,832	8.88%
Low and Moderate Income Housing Fund	14,485,967	17.95%
<b>All Other Indebtedness</b>	<b>23,571,776</b>	<b>29.21%</b>
<b>Total Indebtedness</b>	<b>80,706,176</b>	
Available Revenues	3,668,784	
<b>Net Tax Increment Requirement</b>	<b>77,037,392</b>	

As shown in the chart, bonded debt (both tax allocation bonds and revenue bonds) represent approximately **36** percent of ail debt. Redevelopment agencies often issue bonds for major capital investments, such as street reconstruction; water and sewer



system improvements; the construction of public facilities (libraries; community centers; etc.); and to assist property owners with improvements to their property.

The category of other long term debt represents about 8 percent of total debt and could cover a variety of different obligations that an agency has incurred. One common form of such debt is a commitment to assist the private sector through owner participation agreements or disposition and development agreements. Often, these agreements require an agency to reimburse the property owner a portion of the tax increment to be generated from the increase in value of their property from redevelopment. Agencies may provide such assistance when a property owner can show it is needed to make the development financially feasible. Assistance can take a variety of forms, including the installation of public improvements needed for the development. The key point is that the new tax increment revenues to be generated by the development are used to assist in the funding and without redevelopment assistance, such developments and the corresponding revenue would not occur. Agencies have used this technique to help create new shopping **and** entertainment centers, industrial developments and affordable housing. Several examples of activities undertaken by redevelopment agencies are set forth in the State Controller's Report. A few illustrations are included below under this caption. In addition, see Exhibits D, E and F, which are attached hereto and incorporated herein, for news articles and other publications describing redevelopment agency activities that have used public incentives to leverage private investment in development projects.

Advances to a redevelopment agency from the host city or county represent approximately 9 percent of total debt and reflect borrowing from the host city or county. Agencies typically use this source for:

1. The cost to start up the agency before tax increment is first received.
2. **As** an alternative to issuing bonds for capital project funding. The alternatives to the city not being a creditor of the agency are: a) the city pays for projects, with no expectation of **any** repayment at a later date (i.e., foregoing **any** greater share **of** property tax revenues for the local economy in the **form** of tax increment); or b) the community foregoes projects - i.e., streets aren't improved, libraries are not constructed, etc.
3. **As** a short term funding source to pay for the operating costs **of** the agency. The first payment of tax increment is typically received in December **or January** of a fiscal year. For the period of July through December, agencies may need to borrow money to pay for staff costs. Such advances are normally repaid within the fiscal year in which they are borrowed.

The Low and Moderate Income Housing Fund ("Housing Fund"), which is created under Sections 33334.2 and 33334.3 of the Redevelopment Law, represents roughly 18 percent of total debt. Redevelopment agencies are required to deposit 20 percent of their total tax increment into a Housing Fund. The Redevelopment Law specifically requires that this be treated as debt. Redevelopment agencies generate more housing subsidies than any other group in California (Source: CLT *Financing in California Working Paper #2 California Redevelopment Law*, Institute of Community Economics).

“All Other Indebtedness” represents about 29 percent of agency debt. It is not clear specifically what is included in this number. Don Fraser, principal of Fraser & Associates, is of the view that one major item that is included in this “**All Other Indebtedness**” figure is pass through payments that flow to counties, schools and special districts. Such payments are made either pursuant to agreements that have been entered into (for project areas adopted prior to 1994) or based on statutorily required payments pursuant to Sections 33607.5 and 33607.7, as applicable, of the Redevelopment Law. The State Controller’s Report indicates that such payments totaled \$817 million in 2005-06 out of a total of \$4.1 billion of tax increment generated state-wide. Approximately 20 percent of all tax increment is used for pass through payments and such amounts are treated in the State Controller’s Report as debt. Assuming that all agencies correctly reported their pass through obligations on the SOI, then such payments would represent approximately \$16.1 billion of the \$23.6 billion recorded as All Other Indebtedness. If an agency pays off all its other debt and is no longer receiving tax increment, then this debt item would no longer exist.

Another point in regards to the pass through obligation is that these payments actually generate additional funds for schools that would not be available in the absence of redevelopment. The State Controller’s Report indicates that agencies paid schools over \$190 million in pass through payments in 2005-06. Such funds can be used by the schools to upgrade and build new school facilities.<sup>27</sup>

The Comment also indicates a concern about the health of redevelopment agencies due to the debt that has been incurred. The State Controller’s Report indicates that agencies are, in fact, quite healthy. In the aggregate, the revenues and other resources for agencies exceeded their expenditures in 2005-06 by \$1.6 billion. The total fund balance that agencies reported equaled almost \$13 billion.

Agencies also had more than sufficient tax increment revenue to repay their bond debt. Typically, tax increment bonds can only be sold on the basis of **an** agency’s ability to repay the debt from its current tax increment revenues. Credit markets require that redevelopment agencies show that assessed valuation is in place sufficient to support financing (**and** not based on speculative growth in the future) sufficient to repay bonds. Bond buyers also want to see that a redevelopment agency has a cushion should tax increment go down in the future. Usually, tax increment must be shown to exceed debt service payments by at least 25 percent. This is often referred to as the coverage ratio. The State Controller’s Report actually shows that on a state-wide basis, agencies exceed this coverage ratio by a significant margin. Total debt service payments equaled approximately \$2 billion, compared to over **\$4** billion in tax increment, which represents a 200 percent coverage ratio.

Agencies have used their tax increment funds and related debt to complete a substantial number of projects in the state. The State Controller’s Report shows almost **32** million square feet of new or rehabilitated commercial, industrial and public buildings constructed in 2005-06 alone. The number of jobs created totaled 42,465 in 2005-06. The California State Department of Housing and Community Development reports that

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<sup>27</sup> See *also* the discussion set forth at Response No. 5 to Writing B.

agencies assisted in the construction of 7,079 new affordable housing units in 2005-06.<sup>28</sup> Agencies also assisted with the substantial rehabilitation of 1,709 affordable units within the same time frame.<sup>29</sup>

A sampling of the accomplishments of various agencies, as shown in approximately 40 pages of the State Controller's Report, indicates that a wide a range of infrastructure, affordable housing and private development projects have been assisted. A few of these are described below:

*Community Improvement ~~Commission~~ of the ~~City~~ of Alameda:*

- A. Assisting Alameda businesses through the Façade Improvement Program;
- B. Completing construction of 109 market-rate and 72 below-market-rate housing units;
- C. Completing construction on Breakers at Bayport, a 52-Unit affordable rental housing project with a 10-unit affordable ownership project;
- D. Completing 10 units of affordable housing though the Down-Payment Assistance Program;
- E. Completing construction of Park Street Streetscape Project; and
- F. Completing the Storm Drain **Pump** Station Improvement.

*Monterey ~~County~~ Redevelopment Agency:*

- A. Completing construction of a new library, family resources center and public plaza;
- B. Installing a new traffic signal on Salinas Road at Pajaro Middle School;
- C. Completing Phase I of the Salinas Road Affordable Housing Project consisting of 26 units;
- D. Completing Phase II of the Boronda Storm Drain Master Plan Implementation;
- E. Painting 12 homes owned by low-income households through the Boronda Paint Program;
- F. Beautifying the Boronda community though the Boronda Spring Clean-Up Program;
- G. Providing loans to Boronda Oaks and Jardines de Boronda Affordable Housing Projects;
- H. Providing loans to four low-income homeowners through the Housing Rehabilitation Program;
- I. Providing loans to 12 homebuyers though the First-Time Homebuyers Down-Payment Assistance Program; and
- J. Creating 11 inclusionary units though the Inclusionary Housing Program.

<sup>28</sup>

See California Department of Housing and Community Development report dated April 1, 2007, Exhibit E-1, at page 20, attached hereto as Exhibit E and incorporated herein.

<sup>29</sup>

See California Department of Housing and Community Development report dated May 1, 2007, Exhibit B-5, at page 6, attached hereto as Exhibit E and incorporated herein.

***Pasadena Community Development Commission:***

- A. Providing 180 beds to homeless people during the emergency and bad-weather season;
- B. Completing 12 rehabilitation projects for low-income elderly **and** disabled persons;
- C. Providing financial assistance for housing rehabilitation, code enforcement, economic development and capital improvements within the Service Benefit Area;
- D. Providing loans to 25 low- **and** moderate-income homebuyers through *the* Homeownership Opportunities Program;
- E. Providing home rehabilitation within the targeted revitalization area;
- F. Providing commercial storefront improvements in the Lake/Washington, Villa-Parke and Downtown Redevelopment Project Areas;
- G. Providing tenant-based rental subsidies to 1,256 very-low-income families;
- H. Providing rental assistance to eight very-low-income families through the Housing Opportunity for Persons With AIDS Program;
- I. Providing assistance to 45 very-low-income families with disabilities through the Shelter Plus Program;
- J. Providing supporting services to 1,015 homeless, very-low-income families through the Supportive Services Program;
- K. Providing rental assistance to 28 very-low-income families through the Home Tenant-Based Rental Assistance Program; and
- L. Providing financial assistance to local non-profit agencies for the provision of public and human services to low-income families.

***Lincoln Redevelopment Agency:***

- A. Providing **a** loan to Lincoln Brand Feed for rehabilitation of a commercial building site;
- B. Providing funding for residential sewer line rehabilitation and replacement;
- C. Completing a 41-space public parking lot;
- D. Providing funding for construction of 20 affordable single-family residential units; and
- E. Providing funding for new furniture in the downtown area.

***City ~~of~~ Cathedral City Redevelopment Agency:***

- A. Completing construction of a 61-unit moderate-income family housing project;
- B. Providing assistance to very-low-, low- and moderate-income homeowners with home repair;
- C. Completing construction of sanitary sewers, water lines and road pavement on 35th Avenue; and
- D. Continuing assistance to low-income homeowners through the Assessment District Fee Assistance Program and Sewer Hook-Up Assistance Program.

*Redevelopment Agency of the City of Rialto:*

- A. Completing 27 residential rehabilitation projects through the Emergency Home Repair Program;
- B. Completing 12 rehabilitation projects through the Home Sweet Home Program;
- C. Providing funding to 129 Lower-income households through the Senior Minor Repair Program;
- D. Providing assistance to eight low- and moderate-income households through the Exterior Home Beautification Grant Program;
- E. Completing the Target distribution center, creating 1,500 jobs;
- F. Completing the third and final building as part of the Prologis, creating 650 jobs;
- G. Completing **two** buildings by the Sares-Regis Group, creating 500 jobs; and Completing OPUS' three-building industrial projects.

*Redevelopment Agency of the City of Redwood City:*

- A. Completing the parking facility **and** the cinema at the Broadway Cinema Retail Project;
- B. Completing reconstruction of the Rolison Road Alley;
- C. Completing rehabilitation of 10 single-family units and **45** multi-family units through the Home Improvement Loan Program;
- D. Completing 15 projects through the Lead-Based Paint Grant Program;
- E. Completing 47 units through the Residential Exterior Paint Program; and
- F. Completing 26 home repair projects for low-income seniors through *the* Minor Home Repair Program.

**Comment No. 2:**

*When the Lodi City Council last tried to implement this RDA idea, concerned citizens signed a petition in sufficient numbers that the matter **was** dropped. That council understood the meaning of no. **This** one decided what they want to accomplish for their [sic] own reasons and do [sic] not take no for an **answer**. They simply try **again**.*

**Response No. 2:**

The proposed Redevelopment Plan before the City Council concerns an area different than that before the City Council in 2002.

Moreover, the municipal referendum law, Elections Code Section **9235**, *et seq.*, and Section **33378** of the Redevelopment Law provide that upon receipt of a referendum petition challenging an ordinance which **is** signed by not less ~~than~~ ten percent of the total votes cast within the city or county for Governor at the last gubernatorial election, the City Council must reconsider the ordinance. Elections Code Section 9241 provides:

If the legislative body does not entirely repeal the ordinance against which the petition is filed, the legislative body shall submit the ordinance to the voters. ... The

ordinance shall not become effective until a majority of the voters voting on the ordinance vote in favor of it. If the legislative body repeals the ordinance or submits the ordinance to the voters, and a majority of the voters voting on the ordinance do not vote in favor of it, the ordinance shall not again be enacted by the legislative body for a period of *one year* after the date of its repeal by the legislative body or disapproval by the voters. (Emphasis added.)

In 2002, the City Council considered adoption of a redevelopment plan. Upon receiving a referendum petition signed by the requisite number of voters objecting to adoption of the redevelopment plan, the City Council took action to reconsider and repeal the ordinance. Where **an** ordinance has been referended, Elections Code Section 9241 prohibits the ordinance, once repealed in response to a referendum petition or invalidated by **vote** of the electors, from being reenacted for a period of one year after the date of its repeal.

The City of Lodi electorate **has** never rejected the implementation of a redevelopment plan in Lodi. Although a signature drive was successful in requiring an election relative to the 2002 plan, the City Council opted instead to rescind the ordinance.

Seven years have passed. Even assuming the Redevelopment Plan before the City Council were essentially the same (while it is not; it deals with a different area), the City Council would not be prevented from adopting such an ordinance. Importantly, the City Council early on in the current plan adoption proceedings took care to consider and attempt to address the objections raised by the citizens of Lodi during the 2002 redevelopment plan adoption proceedings, specifically excluding the power of eminent domain from the Redevelopment Plan early in the plan adoption proceedings. The City Council has continued to take the concerns raised by the public during the 2002 plan adoption proceedings into consideration throughout the present redevelopment **plan** adoption proceedings.

For example, one person speaking at the joint public hearing conducted May 28, 2008, Chuck Easterling, testified that during the prior plan adoption proceedings, the members of the project area committee (of which he was a member) **and** City Council considered the comments and objections to determine the concerns which were driving the opposition to Lodi's adoption of a redevelopment **plan**. Mr. Easterling stated that the two main concerns voiced by the citizens of Lodi in opposition to the adoption of a redevelopment plan were based on (1) a misunderstanding and fear of the use of tax increment **financing** and (2) the fear of eminent domain. **In** response to these concerns, the Lodi City Council has directed its staff and consultants to attempt to reach out to the community to provide information and explanations regarding redevelopment and the use of tax increment **financing and**, importantly, instructed that the proposed Redevelopment **Plan** not provide the Redevelopment Agency with the power to exercise eminent domain authority. These are two examples of how the Lodi City Council has taken the concerns **and** desires of the citizens of Lodi into consideration in the preparation **of** the proposed Redevelopment Plan, in response to the objections raised during the prior plan adoption proceedings. Mr. Easterling pointed out that the City could have made good use of the

tax increment it could have been collecting had the redevelopment plan been adopted in 2002 and that he supported the adoption of the presently proposed Redevelopment Plan to assist in the eradication of blight within the Project Area.

**Comment No. 3:**

*This time, in order to get more people behind this proposition the council has resorted to making promises to many interests to get more approval. The information is deliberately vague and without a cost figure.*

**Response No. 3:**

As described above, the Lodi City Council and staff have attempted to tailor the proposed Redevelopment Plan to meet the needs of the City of Lodi and its residents and business owners, while ensuring that the concerns of the citizens of Lodi are taken into account. Because a redevelopment plan is a planning document and does not constitute approval of any specific project or expenditure, no specific cost figures are able to be included at this time. In order to be a useful tool over the course of many decades, a redevelopment plan must be somewhat general, to permit the Redevelopment Agency to flexibly react to **changing** circumstances within the community. According to the City Manager, no formal commitments have been made to any private person for particular treatment; there have not been “promises” to “interests.”

**Comment No. 4:**

*At the last meeting I attended, Mr. ~~Blair~~ King, when pressed for particulars stated, “We have here a theoretical scenario.” He tried to make it sound wonderful. He was telling us the absolute truth when he referred to all the information he was giving us as theoretical. The truth is in the dictionary meaning of the word theoretical. Theoretical means; conjectural (**surmised** – as **opposed** to fact), hypothetical, *speculative*, and suppositional, (opinion, guess, suspicion).*

**Response No. 4:**

This argument is a semantic and rhetorical device rather **than an** analysis **or** description of a meaningful **flaw** in the proposed Redevelopment Plan, redevelopment in general, or any specific actions of the City Manager. In fact, in describing the implementation of the proposed Redevelopment Plan **as a** theoretical scenario, Mr. King was being forthright with the citizens of Lodi. He cannot promise that any specific projects will be undertaken, or that any specific amount of money will be raised. These decisions will be in the hands of the members of the City Council, who are elected by the citizens of Lodi themselves and, in terms of activities of private parties, by the investment decisions made by the property owners in the Project Area.

The proposed Redevelopment Plan is a guiding and planning document. Each actual project to be undertaken by the Agency pursuant to the proposed Redevelopment Plan will undergo practical and fiscal consideration by the Agency board and environmental review to the extent necessary **and** appropriate pursuant to **the** California Environmental Quality Act **and** other applicable statutes and regulations. The proposed Redevelopment Plan does not provide for specific spending or development actions.

**Comment No. 5:**

*The truth ~~is~~ in the reality that a RDA, by **law**, cannot exist unless it incurs debt. It ~~is~~ a debt machine.*

**Response No. 5:**

A redevelopment agency exists within each community, but lies dormant until the legislative body of that community (in this case, the Lodi City Council) enacts an ordinance finding that a need exists for the redevelopment agency of the community to function. The Lodi City Council authorized the Redevelopment Agency of the City of Lodi to function within the community by Ordinance No. 1675, adopted July 7, 1999. The Redevelopment Agency of the City of Lodi has existed since the inception of the Redevelopment Law in California and has been authorized to transact business and exercise powers pursuant to the Redevelopment Law since 1999, but has incurred no debt.

Thus, redevelopment agencies can exist without incurring debt, but are **only** able to receive tax increment revenues to the extent the redevelopment agency has incurred debt. ~~In~~ this way, the California Legislature ensures that redevelopment agencies are taking immediate steps to institute projects and activities to eliminate blight within designated redevelopment project areas. Without the incurrence of debt, no **funds** would be available early in the **life** of a redevelopment project to institute projects for the purpose of eliminating blight and without the reduction or elimination of blight within a redevelopment project area, property values may not increase with inflation or at all and little or no tax increment revenue can be expected to accrue **within** the project area (for the benefit of the agency, the city, or the other taxing agencies that receive property taxes from the project area). In addition, without tax increment financing, the Agency would forego the opportunity to retain a substantially greater share of property **tax** within the community. Tax increment financing is an advantageous, positive component of a successful redevelopment plan. Indebtedness of the Agency is not debt of the City.

**Comment No. 6:**

*We can not pay **our** debt **now** and they want to create a bureaucracy that has the **power** to borrow and put us **even** further in debt for longer than many of our life expectancies. I am **expected** to live within my means. If I have spent my **income** I do not reach **for** a credit card to create an **even** bigger problem for tomorrow. We want **our** leaders to let our town live within its means and **quit** squandering **large sums of city** money that it can not afford in order to gain **their own ends**.*

**Response No. 6:**

The Comment equivocates over who “we” are and what “our” debts are. The debt of a redevelopment agency is not debt of the host city (let alone its residents). **Bonds** which are issued by a redevelopment agency and secured by tax increment revenues are not secured by the general funds of the host city, nor do such bonds incorporate a lien against any real property within the city or the project area. The issuance of bonds by a redevelopment agency does not and cannot result in an increase in property taxes. Obligations entered into by a redevelopment agency are not obligations of members of the public or the City. Agency obligations are not a lien on private property. **A**



redevelopment agency cannot impose a tax. To the extent the Comment suggests that tax increment financing equates to personal debt of citizens or increased debt of the City, the Comment is incorrect.

The adoption of the proposed Redevelopment Plan, which includes provisions allocating tax increment revenues to the redevelopment agency and permits the redevelopment agency to issue bonds and incur other obligations secured by such tax increment revenues, results in a net increase in dollars which are allocated to be used in the community, as directed by the governing board of the redevelopment agency (in the case of Lodi, the elected members of the City Council). Testimony was provided at the joint public hearing by Ken Bingamaxl that, without a redevelopment plan allocating tax increment revenues to the Agency, the community receives \$0.16 per each dollar of property taxes collected within the City, whereas the proposed Redevelopment Plan would enable the community to receive approximately \$0.60 per each dollar of new property taxes collected within the Project Area. This increase in the percentage of property tax dollars which would be **permitted** to stay within the community, for local purposes and local needs, will permit the Agency to accomplish needed public and infrastructure improvements within the City of Lodi, while lessening the burden on the City's general fund and with no added tax burden on the Lodi tax payers.

The proposed Redevelopment Plan would not cause the City of Lodi to spend in excess of its means; rather, the proposed Redevelopment Plan will increase the means available to the City and Agency to provide services and facilities which are badly needed by the community. The Redevelopment Plan will substantially increase revenues available for use in the community.

The incurrence of debt can be accomplished in many ways, but all of them are typically limited by the ability of the Agency to repay the debt. The City, as it is able, could loan money to the Agency (provided that the City Council elects to so proceed) and then receive tax increment as a source of future repayment of principal and interest. This method would provide a fairly limited borrowing capacity that would likely need to be repaid in a fairly short period of time (1 to 3 years) because the City will need its money for other priorities. Another way to raise money is to sell bonds to investors. Debt in this form is limited by the amount of tax increment that an agency is currently generating. (See Response No. 1 above).

JOINT PUBLIC HEARING OF THE LODI CITY RECEIVED  
COUNCIL AND THE LODI REDEVELOPMENT AGENCY MAY 28 PM 3:36  
ON THE PROPOSED PLAN FOR THE IMPROVEMENT CITY CLERK  
PROJECT AND CERTIFICATION OF A FINAL CITY OF LODI  
ENVIRONMENTAL IMPACT REPORT WEDNESDAY May  
28, 2008

The Eastside of Lodi is not "blighted". It is as strong physically as the Westside. It is growing with new construction. Just recently a new drug store opened on Cherokee Lane.

To red-tag the Eastside as "blighted" is not only dishonest, but contrary to State Law.

On average residents are younger, making this a vibrant part of Lodi.

The courts of California have repeatedly declared such project areas to be illegal. They are illegal because they attempt to steal future property tax revenues from local schools and county services without being a truly "blighted" area. You should be ashamed of yourselves. This is a wholly dishonest use of redevelopment law.

Respectfully,

*John P. Talbot*  
John Talbot  
800 Maplewood Drive  
Lodi, Ca 95240

Hand Delivered May 28<sup>th</sup>, 2008 To Lodi City Clerks Office

**Writing B:**

John Talbot, 800 Maplewood Drive, Lodi, California 95240,  
JOINT PUBLIC HEARING OF THE LODI CITY COUNCIL  
AND THE LODI REDEVELOPMENT AGENCY ON THE  
PROPOSED PLAN FOR THE IMPROVEMENT PROJECT AND  
CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT

REPORT WEDNESDAY May 28,2008, Hand Delivered May 28,  
2008 to the City Clerk of the City of Lodi

**Comment No. 1:**

*The Eastside of Lodi is not “blighted”. It is as strong physically as the Westside. It is growing with new construction. Just recently a new drug store opened on Cherokee Lane.*

**Response No. 1:**

The record before the Lodi City Council is replete with evidence that the proposed Project Area is blighted, including much of what is referred to as the east side of Lodi, but also including several areas of the west side of Lodi, treating the Union Pacific Railroad tracks as the “center.”

The Report to Council contains evidence of numerous examples of both physical and economic blight throughout the proposed Project Area. Numerous physical conditions which cause blight pursuant to Section 33031(a) of the Redevelopment Law are described in the record before the Lodi City Council. For example, the Report to Council contains evidence (statistical, photographic and citations to other evidence) that the Project Area contains buildings which are unsafe or unhealthy in which to live or work due to the presence of hazardous materials contamination within the Project Area, inferences which can be made based on the age of **many** of the buildings within the Project Area and photographic evidence showing dilapidation on the exterior of buildings within the Project Area, which could lead to the inference that more serious dilapidation exists within such buildings?” Photographs A3 and A4 at pages 31 and 32 show clear dilapidation of specific structures within the Project Area, including damaged walls and inadequate roofing material and even large missing portions of exterior wall material.

Page 27 of the Report to Council contains a map showing the extent of the TCE and PCE groundwater plumes within the City of Lodi—five plumes underlie extensive territory within the proposed Project Area, as well as other areas within the City. Approximately 1,830 properties in the proposed Project Area are likely to contain asbestos and/or lead-based paint.<sup>31</sup>

The Report to Council contains evidence of conditions that prevent or substantially hinder the viable use of buildings or lots within the Project Area. For example, field surveys conducted on foot and in a vehicle by a professional with over 20 years of property evaluation experience in California produced evidence, which is included in the Report to Council, showing that many of the buildings in the Project Area suffer from varying levels of deterioration, as described and presented in photographic evidence in the Report to Council.<sup>32</sup> The Report to Council also includes evidence that **many** buildings and properties are owned by absentee owners who do not live in the Project Area, the City, or even the State of California.<sup>33</sup> Additionally, the Report to Council

<sup>30</sup> Report to Council, pages 25-32.

<sup>31</sup> Report to Council, page 28.

<sup>32</sup> Report to Council, pages 32-35. Field surveys were conducted by Paul Schowalter on February 6, 7, 12, 13 and 14, 2008. Mr. Schowalter's resume is attached in Exhibit A and incorporated herein.

<sup>33</sup> Report to Council, pages 37-38.

contains evidence that **many** buildings and properties in the Project Area suffer from commercial obsolescence and many such properties likely require significant investment due to the age of structures.<sup>34</sup> Mr. Ken Bingamax1 testified at the May 28, 2008 joint public hearing that properties in the proposed Project Area have open sewage in their yards and feral cats and dogs in the alleys and that the east side of Lodi is in serious need of assistance. He further testified that, as a painter, he has seen properties in serious need of maintenance, that the houses smell like urine and that many people in the Project Area are unable to maintain their properties.

The Report to Council and numerous testimonial statements made during the joint public hearing by both members of the public and members of the Lodi City Council, provide specific evidence, including photographic evidence and a description of the results of the field survey conducted within the Project Area, that the Project Area suffers from inadequate public improvements.<sup>35</sup> The Report to Council shows that much of the proposed Project Area suffers from wastewater system deficiencies, street system deficiencies and water system deficiencies.<sup>36</sup> The cost to remedy the public infrastructure defects shown by the Report to Council to exist within the Project Area is estimated to exceed \$148,000,000.00.<sup>37</sup>

Evidence that incompatible land uses (both existing incompatible uses and uses which are incompatible with the planned use for that property and surrounding properties) within the Project Area is shown at pages 66 through 73, including a description of where heavy concentrations of such incompatible uses are found and photographic evidence which provides specific examples of incompatible land uses. Examples of incompatible uses that hinder the viable use of properties within the Project Area include residential uses adjacent to commercial uses without adequate buffers, as depicted in photographs C1 through C4 and C8 through C14 at pages 69-72 in the Report to Council, as well as residential uses adjacent to industrial uses without adequate buffers, as depicted in photographs C6 and C7, at page 71 in the Report to Council. Where residential uses are adjacent to commercial and/or industrial uses without an adequate buffer, noise, traffic, odors and other nuisances are likely to reduce the viability not only of the residential use but also of the adjacent commercial or industrial use. Commercial uses often create traffic and excessive noise which disturbs residential users. Industrial uses often create noise, odor and traffic which disturbs residential users. And the existence of nearby residential uses can create problems for commercial and industrial users because of likely complaints by residential users and resulting additional restrictions on the use of the commercial and industrial properties.

The Report to Council also provides evidence that the Project Area contains numerous parcels which are subdivided into inadequate sizes and/or irregular shapes to permit most viable current land uses, which parcels are in multiple ownership.<sup>38</sup> Specific examples of irregular parcels within the Project Area include shallow lots along Sacramento, Main

<sup>34</sup> Report to Council, pages 35-37.

<sup>35</sup> Report to Council, pages 39-43.

<sup>36</sup> See maps in Report to Council at pages 41-43.

<sup>37</sup> Report to Council, page 39. This figure is based on interviews and data provided to GRC

<sup>38</sup> Redevelopment Consultants by City of Lodi staff.

Report to Council, pages 74-80.

and Stockton Streets, where some heavy industrial parcels are only 125 feet deep; residential lots north of Lockeford Avenue, east of Pleasant Avenue, where parcels are only 45 feet wide; residential lots south of Lockeford Avenue, east of Washington Street, where parcels have no frontage on a street and are accessed only by an alley; and over 100 privately owned parcels that are less than 2,500 square feet in area.<sup>39</sup> Again, photographic evidence is provided at pages 75 through 80 of the Report to Council to illustrate specific examples of these blighting conditions within the Project Area, including a parcel with poor layout causing cars to be parked at an angle, sticking into a public street,<sup>40</sup> parcels with inadequate **parking** in which cars are parked over a sidewalk or where a sidewalk should be (but is not),<sup>41</sup> and numerous parcels in which the layout requires cars to park in a manner which will require them to back out directly onto a street.<sup>42</sup>

The Report to Council also provides evidence and analysis regarding economic conditions in the proposed Project Area which cause blight, pursuant to Section 33031(b) of the Redevelopment Law. Statistics show that the property values within the Project Area are declining and that the rate of turnover **and** improvement to properties within the Project Area are comparatively lower than the surrounding areas, showing a significant lack of new investment in the Project Area.<sup>43</sup> Evidence has also been presented that property values in the Project Area suffer comparatively to surrounding areas due to the existence of hazardous materials contamination, both relating to the documented groundwater contamination and the presence of lead based paint and asbestos contamination which is typically present in buildings constructed **prior** to 1976.<sup>44</sup> The existence of hazardous materials contamination constitutes a deterrent to reinvestment, as the cost of remediation must be added to the normal cost of development or rehabilitation of a property. This in turn results in lowered property values.

Evidence of high vacancy rates, low lease rates **and** abandoned buildings within the Project Area, including photographic documentation showing numerous vacant residential, commercial and industrial buildings in the Project Area, is also provided in the Report to Council. Many of the vacant properties shown in the Report to Council are **badly maintained**.<sup>46</sup> These conditions result in lower property values, reduce the incentive of surrounding property owners to maintain their properties, increase crime and fire rates and can even constitute a hazard to **children**.<sup>47</sup>

Another important economic blighting condition found in the Project Area is a high crime rate that constitutes a serious threat to the public safety and **welfare**. The proposed Project Area suffers from a comparatively higher crime rate, including serious, "Part 1"

<sup>39</sup> Report to Council, page 74.

<sup>40</sup> Report to Council, photograph D2.

<sup>41</sup> Report to Council, photographs D3, D6, D12 and D13.

<sup>42</sup> Report to Council, photographs D8, D9, D11 and D14.

<sup>43</sup> Report to Council, pages 80-83.

<sup>44</sup> Report to Council, pages 26-30.

<sup>45</sup> Report to Council, pages 83-97 and photographs E1 through E40.

<sup>46</sup> See in particular, photographs E2, E8, E10, E12 and E14 in the Report to Council at pages 84 through 88.

<sup>47</sup> Report to Council, page 83.

<sup>48</sup> Report to Council, pages 97-99.

crimes, ~~than~~ the remaining areas of the City of Lodi.<sup>49</sup> In addition, the Project Area is the center of gang activity within the City.<sup>50</sup> See also discussion in Response No. 8 to Writing F.

A summary of the physical and economic conditions found within the Project Area which cause blight is found at pages 101 through 105 of the Report to Council, including maps depicting the locations of such blighting conditions.

In addition to the voluminous evidence set forth in the Report to Council and described above, at the May 28, 2008 joint public hearing, the Lodi City Council heard and considered testimony that buildings within the Project Area were old and dilapidated and require significant investment to rehabilitate, that the Cherokee Lane corridor is considered to be unsafe, which affects the viability ~~of~~ the hotels in that area, that the Project **Area** suffers from graffiti and that numerous infrastructure and public improvement projects were needed in the Project Area.<sup>51</sup>

Notwithstanding the assertion that one new ~~drug~~ store opened recently within the proposed Project Area, the record before the City Council shows that development and commercial activity within the proposed Project Area, including the rate of development,<sup>52</sup> vacancy rates,<sup>53</sup> and property values,<sup>54</sup> all compare unfavorably with the remainder of the City of Lodi and San Joaquin County. The proposed Redevelopment Plan is intended to assist the proposed Project **Area**, both economically and physically **and** to place this blighted area on equal footing with other areas of the City and County which contain thriving, economically and physically sound commercial and residential communities.

The Report to Council also includes evidence, at pages 17 through 22, that the proposed Project **Area** is “predominantly urbanized” within the meaning of Section 33320.1 of the Redevelopment Law.

As held by the court in *Fosselman’s v. Alhambra*, *supra*, the determination of whether **an** area is blighted within the meaning of the Redevelopment Law is delegated to the legislative body of the host community, in this case, the Lodi City Council. The writer’s assertion that the Eastside of Lodi is not blighted is a statement of the opinion of Writer B. The above discussion shows that the **Lodi** City Council would be justified in determining that substantial evidence exists in the record before the City Council to support **a** finding that the Project Area is a legal redevelopment project area pursuant to Section 33320.1 of the Redevelopment Law.

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<sup>49</sup> Report to Council, page 99.

<sup>50</sup> Report to Council, page 99.

<sup>51</sup> See testimony of Ken Bingamaxl, Dale Gillespie, Nancy Beckman, Beth Kim and Steve Spiegel and the May 28, 2008 joint public hearing.

<sup>52</sup> Report to Council, pages 81-83.

<sup>53</sup> 94 vacant commercial or industrial buildings exist **within** the project area. Report to Council, page 83. Numerous photographs **showing** vacant properties **within** the **project area**, as well as additional blighting conditions at these properties, are **set forth at** pages 84-97 of the Report to Council.

<sup>54</sup> Report to Council, pages 80-83.

**Comment No. 2:**

*To red-tag the Eastside as “blighted” is not only dishonest, but contrary to state law.*

**Response No. 2:**

This Comment is vague and uncertain as to its meaning. It is not clear what is meant by “red-tag” and no authority or explanation is given **as** to: (1) in what way the Eastside is being red-tagged, (2) why the actions of the City Council are dishonest, or (3) what state laws are being violated. If the writer is asserting that by adopting the proposed Redevelopment Plan, the Project Area and properties and residents therein will be stigmatized in some way, this assertion is contradicted by the following evidence that redevelopment project areas experience a higher rate of growth (i.e. in property values) than areas which are not included ~~within~~ a redevelopment project area.

If residents **and** businesses in a redevelopment project area were not able to obtain financing for improvements, then one would expect to see a stagnant or declining assessed valuation in redevelopment project areas. However, a study prepared by the Public Policy Institute of California found that over the **1983** to 1996 period assessed values in the studied redevelopment project areas rose by 270%, while assessed values in similar areas not in redevelopment rose by 144%, or by only 53% of the growth rates experienced by redevelopment project areas.<sup>55</sup>

In a similar manner, a study entitled The Impact of Fiscal 2002-03 Community Redevelopment Agency Activities on the California Economy<sup>56</sup> found that redevelopment agencies directly and indirectly generated some \$**31.84** billion in total economic activity during fiscal year 2002-03. It is unlikely that this activity would have taken place if financial institutions were not Willing to invest in redevelopment project areas.

Further, Pat Patrick, President and CEO of the Lodi Chamber of Commerce, testified at the May 28, 2008 joint public hearing that the implementation of redevelopment results in increases in property values within Project Areas. Mr. Patrick also testified that redevelopment creates jobs, **expands** business opportunities, creates affordable housing and homeownership opportunities for families in need of housing assistance, reduces **crime** rates, improves infrastructure and attracts private investment in redevelopment project areas.

The Writer did not provide any evidence or authority for the apparent claim that stigma or harm will come to **the** property or residents located within the proposed Project Area, either in the writing included above or ~~in~~his testimony at the joint public hearing.

**As** for the notion that designation of an area stigmatizes the area or community, the State Controller’s Report lists among communities with redevelopment project areas the following: Menlo Park, Pasadena, Redwood City, San Francisco, San Mateo, Santa **Barbara**, Town of Los Gatos, Santa **Cruz** and Santa Rosa—areas hardly suffering from a stigma. These redevelopment project areas in cities that hardly **can** be said to be under a

<sup>55</sup> Dardia, Michael. *Subsidizing Redevelopment in California*. Public Policy Institute of California, 1998, page xiii.

<sup>56</sup> The Center for Economic Development at California State University, Chico, *The Impact of Fiscal 2002-03 Community Redevelopment Agency Activities on the California Economy*, p. 1

“stigma” refutes the notion that a stigma attaches to **an** area based solely on findings that the area is “blighted” and inclusion of such area within a redevelopment project area.

**Comment No. 3:**

*On average residents are younger, making this a vibrant part of Lodi.*

**Response No. 3:**

The residents within the Project Area may be younger on average than the residents of the remainder of the City. The crime rates within the Project Area *are* also higher than the remainder of the City.”

The determination that the proposed Project Area is predominated by physical and economic characteristics which cause blight does not rest on the age of the population within the Project Area.

**Comment No. 4:**

*The courts of California have repeatedly declared such project areas to be illegal.*

**Response No. 4:**

The writer’s reference to “such project areas” is vague. It is unclear what project areas the writer is alleging *are* illegal. Clearly, as there are hundreds of operating project areas in California, it is possible to legally establish a redevelopment project area.

Courts in California have upheld numerous redevelopment project areas upon a determination that substantial evidence exists in the record to support a finding by the city council that the project area is blighted as required by the Redevelopment Law. One example is *Evans v. City of San Jose* (2005) 128 Cal.App.4th 1123, discussed *supra*, which upheld findings made by the City Council of the City of San Jose in creating a new project area within the City of **San Jose**. During that year, the median income for a family of four in the County **of** Santa Clara (in which the City of San Jose is located), as shown by the California Department of Housing and Community Development’s publication dated February 25, 2005, was \$105,500. The median income (for a family of four) in the County of **San Joaquin** for the **same** year **was** \$55,300. The fact that San Jose had a relatively higher **median** income did not prevent the *Evans* court **from** upholding the findings of the City Council of San Jose that the project areas in that case were blighted. San Joaquin County’s significantly lower median income figure constitutes further evidence from which **an** inference of blight can be taken, as discussed at pages 23-24 of the Report to Council.

The proposed Project Area contains numerous blighting conditions, as listed in more detail in Response No. 1 to Writing B above. The discussion in Response No. 1, above, shows that substantial evidence exists in the record before the **City** Council to support a

57

Report to Council, pages 97-99. **Of** all calls for service received by the Lodi **Police** Department, **over half (54%)** originated in *the* Project Area **during** the period spanning 2005 through 2007. **Similarly, 54%** of the **City’s** major (“Part 1”) **crimes** occurred in the Project Area. Report to Council, **page 98**. Page 99 of the Report to Council contains a table comparing the number of criminal incidents within the Project Area and *the* remainder of the **City** and **shows that** the project area **has a higher proportionate number of** calls for service, reported **Part 1** crimes and **Part 1** cases filed than the remainder of the **City**.



finding that the Project Area is a legal redevelopment project area pursuant to Section 33320.1 of the Redevelopment Law.

**Comment No. 5:**

*They are illegal because they attempt to steal future property tax revenues from local schools and county services without being a truly “blighted” area.*

**Response No. 5:**

The Redevelopment Law requires and provides a procedure for conducting consultations *with* and providing information to taxing agencies that may be affected by the adoption of a redevelopment plan.<sup>58</sup> Blair King, City Manager of the City of Lodi, met with representatives of each of the affected taxing agencies, including school districts and the County of San Joaquin, to discuss the proposed Redevelopment Plan and its possible effects on such taxing agencies, including the future tax revenues to be received by such agencies. None of the affected taxing agencies testified in opposition to the Redevelopment Plan or asserted any objection (in writing or otherwise) to the adoption by the Lodi City Council of the proposed Redevelopment Plan. An analysis of the 33328 report and the consultations with the affected taxing agencies is included in the Report to Council at pages 231 through 234.

In fact, schools and other taxing agencies receive *more* money as a result of the implementation of a redevelopment plan than they would in the absence of redevelopment. Redevelopment agencies are required by Section 33607.5 of the Redevelopment Law (enacted by AB 1290) to make statutory pass through payments to school districts and other taxing entities affected by a redevelopment agency’s receipt of tax increment. The Redevelopment Law only requires that the schools report a portion of the AB 1290 pass through payments as property taxes, which offset state aid. The balance is used by the schools for facilities.<sup>59</sup> The schools benefit because the State of California is required under the California Education Code and Proposition 98 (passed in 1988—not to be confused with the 2008 version of Proposition 98 which dealt with rent control and eminent domain and was defeated at the polls in June, 2008) to fully fund the operations of schools based on their revenue limit. **Any** loss of property tax due to redevelopment must be made up by the state **and** in addition the districts get to deduct a portion of the AB 1290 pass through payments from the amounts they report as property taxes received, which amounts may be used to pay for facilities.

Further, the State Controller’s Report states that within the State of California, redevelopment agencies provided a total of \$163,274,000 to school districts during the fiscal year ending June 30, 2006, including pass through payments and other financial or construction aid (including aid to alleviate overcrowding of schools caused by the implementation of redevelopment plans **and** projects).<sup>60</sup> **In** addition, redevelopment agencies provided a statewide total of \$27,738,000 in financial assistance in the form of **pass** through payments **and** other financial and construction aid to community college

<sup>58</sup> See, e.g., Sections 33327, 33328, 33328.1, 33333.3, 33344.5, 33344.6 and 33360.5 of the Redevelopment Law.

<sup>59</sup> See, for example, Section 33607.5(a)(4)(A) through (D), which sets forth this allocation between funds for facilities **and** funds to be counted as property taxes.

<sup>60</sup> State Controller’s Report, at page xxiii.

districts during that same time period.<sup>61</sup> Thus, school districts are not likely to suffer—they are more likely to benefit—as a result of the adoption and implementation of the proposed Redevelopment Plan. And other taxing entities stand to benefit as well; in 2003 alone, redevelopment construction activities generated \$1.58 billion in state and local taxes in California.<sup>62</sup>

**Comment No. 6:**

*You should be ashamed of yourselves.*

**Response No. 6:**

The statement constitutes the writer's opinion. Other witnesses expressed frustration that no City Council of Lodi **had** already enacted a redevelopment plan and implementing programs in Lodi. Witnesses also testified that redevelopment is needed in Lodi to encourage investment in the proposed Project Area.<sup>63</sup>

**Comment No. 7:**

*This is a wholly dishonest use of redevelopment law.*

**Response No. 7:**

The statement is vague and is not supported by evidence or citation of legal authority. The adoption of the proposed Redevelopment Plan for the Lodi Community Improvement Project is permitted by California law, upon compliance with certain procedures and upon certain findings and determinations being made by the City Council. All legally required procedures have been complied with and all required findings and determinations are supported by substantial evidence in the record before the Lodi City Council, as described above in response to Comment No. 4. In addition, Lodi staff and consultants have provided public notice and held numerous community meetings in excess of legal requirements for a redevelopment plan adoption.<sup>64</sup> Substantial evidence supports a determination that the proposed Lodi Community Improvement Project may legally be adopted by the Lodi City Council in its discretion and that the proposed Project Area is a blighted area within the meaning of the Redevelopment Law.

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<sup>61</sup> State Controller's Report, at page xxiii.

<sup>62</sup> See CED, *Executive Summary: The Impact of Fiscal 2002-03 Community Redevelopment Agency Activities on the California Economy*, conducted by: Center for Economic Development at California State University, Chico, attached hereto as Exhibit C and incorporated herein; see also California Redevelopment Association, *Redevelopment—Building Better Communities*, at Exhibit D, attached hereto and incorporated herein.

<sup>63</sup> See testimony of Ken Bingamaxl, Dale Gillespie, Nancy Beckman, Beth Kim and Steve Spiegel and the May 28, 2008 joint public hearing.

<sup>64</sup> Report to Council, pages 157-214, includes copies of two newsletters distributed within the City in English, Spanish and Urdu and describes the meetings and additional outreach efforts implemented by City staff during the current plan adoption process.

May 28, 2008

RECEIVED

2008 MAY 28 PM 1:15

CITY CLERK  
CITY OF LODI

To: Lodi City Council

Re: An Ordinance of the City Council of the City of Lodi Approving and Adopting the Redevelopment plan for the Lodi Community Improvement Project.

The project speaks of using RDA funds for ground water contamination clean up. However, rate payers of Lodi are already paying \$10.50 on their utility bill for this clean up. Therefore, this is another example of double taxation and an excuse to create an RDA project that is already being corrected through other means of taxation. How will the City of Lodi refund the rate payers PCE/TCE ground water contamination since RDA funds will pay for future clean up?

The plan indicates eliminating blight conditions through improvements to appearance and attractiveness of residential neighborhood through neighborhood improvement programs, code enforcement efforts. However, Lodi's code enforcement has not been funded nor has it used the power of the law or fines to improve any deteriorated conditions in Lodi. What will be different about code enforcement in an RDA if code enforcement couldn't clean up blight with the law & fines at their disposal for the past 2 years?

With the passing of proposition 98 or 99 how will that affect the current RDA project?

Please indicate these concerns in the public record of this draft ordinance. I am requesting that council reject the above name ordinance.

Respectfully,

Oanh Nguyen  
141-143 S Wain Dr  
Lodi, CA 95240



Writing C:

Oanh Nguyen, 141-143 S. Wain Drive, Lodi, California 95240,  
letter received by the City Clerk of the City of Lodi on May 28,  
2008

**Comment No. 1:**

*The project speak of using RDA funds **for** ground water contamination clean up. However, ratepayers of **Lodi** are already paying \$10.50 on their utility bill for this clean up. Therefore, this **is** another **example** of double taxation and an excuse to create an RDA project that **is** already being corrected through other means **of** taxation.*

**Response No. 1:**

Comment No. 1 does not describe double taxation. Further, adoption of the proposed Redevelopment Plan will not result in double taxation. It would result in the host community retaining a greater portion of property taxes.

Groundwater contamination in Lodi is a very serious problem and by recent estimates is likely to cost in excess of \$46,500,000.00 to remediate.<sup>65</sup> Toxic plumes under Lodi have been the source of litigation, a cooperation and a settlement agreement between the City and the Department of Toxic Substances Control and enforcement actions by the Department of Toxic Substances Control.<sup>66</sup> The City has installed a portion of the facilities required to remediate one of the five toxic plumes in the Lodi groundwater; however additional remediation activities are still required and even **after** the facilities have been installed, operation and maintenance of the remediation of the toxic plumes is anticipated to continue for 30 years.

As discussed in detail below, the City estimates that its potential liability arising from the PCE/TCE clean-up and related litigation that has not been funded by settlements is approximately \$35.46 million (in 2007 dollars, with no adjustment based **upon** inflation or booming costs). In 2005, without any other current source to pay those costs, the City Council approved an average \$10.50 rate increase to fund the remainder. Currently, that rate increase is expected to continue over the life of the expected **30** year cleanup to fund the operations and maintenance. However, if redevelopment moneys were be used to pay for all or portions of *those* costs it would allow an early termination of the water rate increase. As such, the City would not be tapping two sources of revenue to double recover its costs.

The City also settled with all but **four** groups **of** potentially responsible parties regarding the remaining four plumes and with its own insurance carriers, raising \$34.2 million

<sup>65</sup> Report to Council, page 26. It is extremely difficult to estimate the cost to complete the remediation of the groundwater contamination in **Lodi**. This is because it **is** difficult to measure the Contamination, in particular **as** the remediation efforts progress and the measurements become more difficult **to obtain**. In addition, attainment standards for groundwater quality change over time, normally becoming more restrictive, such that more remediation activities are required than previously believed to be necessary. Finally, costs of remediation do not remain stable over time, just **as** costs of construction vary based on **the** availability of materials and labor. As discussed below, other **estimates of** the total cost to remediate the toxic plumes reach \$49,500,000.00.

<sup>66</sup> See California Environmental Protection Agency, News Release, dated June 3, 2003, at Exhibit F, attached hereto and incorporated herein, Department of Toxic Substances Control, Notice of Proposed Settlement Lodi Groundwater Site Lodi, **San Joaquin County**, California (Public Comment Period: May 20 to June 20, 2005), at Exhibit F, attached hereto and incorporated herein, Matt Brown, Lodi Contamination Settlement near end; cleanup **moves** ahead, dated June 15, 2007, at Exhibit F, attached hereto and incorporated herein, see **also** Report to Council, pages 25-27.

toward the currently estimated \$49.5 million total cleanup cost. The settlements reached as of September 2007 leave the City obligated to fund the \$15.3 million remaining shortfall in clean-up costs. Settlements with the remaining defendants would reduce the City's potential clean-up liability.

However, the litigation program created several other liabilities for the City including the Lehman financing described below, litigation and consultant costs. To finance the litigation, the City and the Lodi Public Improvement Corporation entered into a financing arrangement with Lehman Brothers Inc. ("Lehman") in June 2000 entitled the Lodi Financing Corporation Environmental Abatement Program Variable Rate Certificates of Participation ("2000 COPs"). Lehman advanced \$15,625,000, which was repayable with interest accruing at the rate of "LIBOR" plus 20% per *annum*, adjusted quarterly and compounded annually. In 2004, litigation arose between Lehman and the City over the City's obligations under the 2000 COPs. The matter settled in 2005 with the City paying Lehman \$6 million to **fully** discharge its obligations under the 2000 COPs.

In 2005, City staff and outside consultants estimated that the cost of the City's potential liability arising from the PCE/TCE clean-up and related litigation that was not yet funded was \$45 million. Although this potential liability could be shared by the System and the Water System, the City determined to fund the unfunded costs through the Water System by raising water rates. Accordingly, Bartle Wells performed a rate analysis and concluded that a \$10.50 average monthly rate increase, phased in over 2 years, would meet the City's unfunded potential liability. This \$10.50 average rate increase was adopted pursuant to Council Resolution 2005-203 on September 21, 2005 and is projected to raise \$2.7 million in additional revenue each year ("Water Rate Increase Revenue"). This rate increase was unsuccessfully challenged by citizen initiative in November 2006; the effort to repeal the water rate increase was defeated by a vote of 63.9% to 36.1%.

The estimated future costs, immediately available sources of funds (excluding the \$2.7 million of Water Rate Increase Revenues that the City expects to be generated on an annual basis) and resulting unfunded potential City liability with **respect** to the PCE/TCE clean-up and related litigation is summarized below. The City expects to fund the unfunded liability with Water Rate Increase Revenues and not with assets or revenues of the System.

<u>Item</u>	<u>Amount (in millions)</u>
Cleanup Costs <sup>67</sup>	\$49.50
Water Fund Loan <sup>68</sup>	12.50
Legal Fees	1.66
<b>Total Costs</b>	<b>\$63.66</b>

<sup>67</sup> Includes a \$15 million contingency.

<sup>68</sup> Represents a loan from **the Infrastructure Replacement Water Fund Account** to the PCE Water Fund Account, which is now **being repaid from Water Rate Increase Revenue**.

**Available Sources of  
Funds:**

M&P settlements	<b>\$14.60</b>
Insurance settlements <sup>69</sup>	<b><u>13.60</u></b>
<b>Total Sources of Funds</b>	<b>28.20</b>
<b>Unfunded Potential City Exposure to be funded from Water Rate Increase Revenue</b>	<b><u>\$35.46</u></b>

Adoption of the proposed Redevelopment Plan is expected to result in additional revenues available to assist in the remediation of the groundwater contamination in the Project Area. The fact that funds are already being collected for this purpose does not mean that additional funds will not benefit the Project Area **and** the community as a whole—these additional revenues will enable the Agency to assist remediation of the groundwater contamination, resulting in the earlier completion of such remediation. It is unlikely that the assessment of \$10.50 paid by the tax payers in Lodi is, by itself, sufficient to fully fund this remediation.

**Comment No. 2:**

*How will **the city** of Lodi refund the rate **payers** PCE/TCE ground water contamination since RDA funds will pay ~~for~~ future clean **up**?*

**Response No. 2:**

This statement is a non sequitur. It does not hold that if future tax increment revenues assist ~~with~~ the remediation of the groundwater contamination in Lodi, the rate payers' **funds** will not be needed to **pay** for the remediation **as** well. **As** discussed above, the availability **of** added funds to assist with the remediation can increase the likelihood of success and reduce the time within which the remediation can be completed.

**As** discussed in Response No. 1 to Writing *C* above, use of redevelopment funds to assist in the remediation of the ground water contamination in Lodi may assist in completing this remediation more quickly and efficiently **than** would otherwise be possible. Rate payers in Lodi will not pay more than the cost to complete this important remediation; instead, use **of** redevelopment funds may reduce the ultimate amount to be charged to the Lodi taxpayers for the remediation of the ground water contamination in Lodi.

**Comment No. 3:**

*The plan indicates eliminating blight conditions through improvements to appearance and attractiveness ~~of~~ residential neighborhood through neighborhood improvements programs, code enforcement efforts. However, **Lodi's** code enforcement has not been funded nor has it used the power of the law **or** fines to improve any deteriorated conditions in Lodi. What will be different about code enforcement **in** an RDA **if** code*

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<sup>69</sup> Reflects use of \$6 million of the USF&G settlement to pay Lehman in connection with the 2000 COPs, as described above.

*enforcement couldn't clean up blight with the law & fines at there [sic] disposal ~~for~~ the past 2 years?*

**Response No. 3:**

The photographs in the Report to Council show **an** abundance of code violations within the Project Area. The City spends a disproportionate amount of its funds on law enforcement efforts within the Project Area, **as** opposed to within the remainder of the City.<sup>70</sup> The crime rate for serious (Part 1) crimes is higher in the Project Area, per capita, ~~than~~ elsewhere in the City?' This constitutes a burden on the remainder of the community, as tax dollars allocated to the City of Lodi are required to be used in greater amounts within the Project Area in the attempt to maintain reasonable levels of safety and compliance with the law. Increases in code enforcement activities *within* the Project Area, which will be necessary if the proposed Redevelopment Plan is not adopted, will result in an increased burden on the community which is disproportionate to the revenues generated for the City from within the Project Area.

**As** stated in Comment No. 3, the proposed Redevelopment Plan adoption is expected to provide additional funding which would be available for neighborhood improvement programs. In addition, redevelopment funds are expected to be available for public improvements which would otherwise be required to be funded by moneys in the City's general fund. This is anticipated to make funds available to the City for code enforcement which would not otherwise be available and **has** not been available in the past.

Together, the increased ability of the City to focus on code enforcement efforts in conjunction with the institution by the Redevelopment Agency of neighborhood improvement programs to provide grants and/or loans to property owners who wish to participate in such programs to improve their properties is expected to have a beneficial **and** long term effect on the physical and economic conditions in the Project Area, which could not be achieved by code enforcement done.

Two years is not a sufficient period for determining how well code enforcement is **working**; code enforcement is a relatively slow and expensive process. Code enforcement is a tool **which** takes a long time to use **and** is not always effective at preventing repeated code violations as well as code violations which are difficult to detect. Moreover, redevelopment can address many community problems that cannot be addressed with code enforcement, such as inadequate lot size and contamination.

**Comment No. 4:**

*With the ~~passing~~ of proposition 98 or 99 **how** will that affect the *current* RDA project?*

**Response No. 4:**

Without undertaking **a** comprehensive analysis of the terms and potentially far-reaching effects of Proposition 99 (Proposition **98** was not adopted by the voters at the June 3, 2008 election), insofar as the writer specifically refers to the effects of Proposition 99 relative to the ability of the Redevelopment Agency to exercise the power of eminent

<sup>70</sup>

Report to Council, pages 97-99.

<sup>71</sup>

Report to Council, pages 98 and 99; see also discussion in Response No. 8 to Writing F.

domain, Proposition 99 is not expected to have any effect on the proposed Redevelopment Plan. The proposed Redevelopment Plan does not provide the Redevelopment Agency of the City of Lodi with the authority to exercise eminent domain powers.

Mr. Ernest Glover,

I would like to know more about this redevelopment project in Lodi. I live on south Sacramento Street and this is going to effect me. The nop or whatever letter you sent out made no sense with all the codes on it so I got on the internet and started reading about it. I already am a first time homebuyer on government loans so how would this affect me? I live in a low density area according to your map what exactly does that mean? It also refers to the fact that there is contaminated water in some areas and I was wondering which ones and if I should be concerned about the health of my son and myself? I think the rest of the areas effected by this would like to know to the paper sent out letting us know how to contest and by when wasn't very factual and most people did not understand it. Where will all of the people go that are going to be displaced out of this? Are more houses going to built over ours and if so is there a new elementary and high school being built since the city is already overcrowded? I completely detest this project and there has to be a simpler way of doing this than displacing the low income people. I am a first time home buyer and have owned my house since September of 2007 and had I had known all of this then I would not have bought in this area.

Cara Fink  
1637 S. Sacramento St  
Lodi Ca 95240

209-327-0546

Received 5/21/08  
Er



**Writing D:** Cara Fink, 1637 S. Sacramento Street, Lodi, California 95240, letter received by GRC Redevelopment Consultants on May 21, 2008.

**Comment No. 1:**

*I would like to **know more** about this redevelopment project in Lodi. I live on south Sacramento Street and this **is going** to effect [sic] me. The nop or whatever letter **you** sent out made no **sense with all the codes** on it so I got on the internet and started reading about it.*

**Response No. 1:**

The proposed Redevelopment Plan, Report to Council, Draft and Final Environmental Impact Report and other documents and materials prepared in connection with the proposed adoption of the Redevelopment Plan are all available for public inspection at the office of the Lodi City Clerk. City Manager Blair King and other City of Lodi staff and consultants provided notice of the proposed Redevelopment Plan adoption to the public as required by the Redevelopment Law by publication in a newspaper of general circulation for not less **than** four weeks (Sections 33349(a) and **33361** of the Redevelopment Law) mailing notices to all residents, businesses and property owners within the Project Area (Section 33349(b) and (c)); and mailing notices to the governing body of each taxing agency that levies a tax upon property within the Project Area (Section 33349(d)). In addition, Lodi staff and consultants conducted numerous public meetings and circulated **two** city-wide newsletters in English, Spanish and Urdu to attempt to raise awareness **and** provide information to the public regarding the proposed plan adoption.<sup>72</sup> The City's website contains a page devoted to informing the public about the proposed Redevelopment Plan adoption, including copies of documents prepared in connection with the plan adoption proceedings and copies of the newsletters referred to **above**.<sup>73</sup> The City of Lodi made significant efforts to ensure that members of the public who had questions or concerns regarding the proposed Redevelopment Plan were provided with the information they needed **to** understand the plan adoption process and the goals **and** objectives of the **City**.

**Comment No. 2:**

*I already am a first **time homebuyer** on government loans so **how would** this affect me?*

**Response No. 2:**

No specific plans or programs have been adopted by the Redevelopment Agency at this time; however, housing programs adopted by redevelopment agencies often focus on providing rental assistance and/or first time homebuyer assistance. Thus, it is not likely that the Agency will adopt a program for which the writer would qualify. It is possible that the Agency may approve a program to provide loans or grants for the rehabilitation of residential and/or commercial property within the Project Area, but any such program would be limited to property owners **who** voluntarily wish to participate.

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<sup>72</sup> Report to Council, pages 157-167.

<sup>73</sup> <http://www.lodi.gov/Redevelopment.html>

**Comment No. 3:**

*I live in a **low** density area according to **your** map what exactly does that mean?*

**Response No. 3:**

Areas designated as “Low Density Residential” in the Lodi General Plan are limited to five residential units per gross acre (i.e. including streets and public right of way). Land use designations are a function of the City’s General Plan and will not be modified by the Redevelopment Plan.

**Comment No. 4:**

*It also refers to the fact that there is contaminated water in some areas and I was wondering which ones and if I should be concerned about the health of my son and myself<sup>3</sup>*

**Response No. 4:**

1637 S. Sacramento Street does not overlay any of the known PCE/TCE contamination plumes. In addition, the City of Lodi has been working to remedy the ground water contamination to ensure that the health, safety and welfare of the citizens of the City of Lodi are not harmed by this environmental contamination. Additional information is available by contacting the California Department of Toxic Substances Control. The proposed Redevelopment Plan is expected to make additional funding available for this purpose through the receipt by the Redevelopment Agency of tax increment revenues **and** the exercise of redevelopment authority under the Polanco **Act**, Section 33459, *et seq.*, of the Redevelopment Law.

**Comment No. 5:**

*I think the rest ~~of~~ the areas effected [sic] by this would like to **know** to [sic] the paper sent out letting **us** know how to contest and by when wasn’t veryfactual **and most people** did not understand it.*

**Response No. 5:**

The writer is the only person who has stated that they did not understand the notices sent out by the City of Lodi in connection with the Redevelopment Plan adoption proceedings. As described above in Response No. 1, the City **and** City staff and consultants have made substantial efforts (including efforts well beyond statutory requirements) to provide notice **and** information to the community in connection with the adoption of the Redevelopment Plan, to ensure that individual members of the community were fully informed about the City’s goals and objectives, the procedures being followed by the City and the rights of the citizens of Lodi with respect to the proposed Redevelopment Plan adoption.

The Lodi City Council, the Redevelopment Agency of the City of Lodi and City and Agency **staff and** consultants made numerous efforts to communicate **with** the citizens of the City of Lodi and the residents and business owners within the proposed Project Area to ensure the community was provided with ample information regarding the proposed Redevelopment Plan adoption process and to ensure the citizens of Lodi had **a** meaningful opportunity to provide comments and feedback relating to the proposed

Redevelopment Plan adoption. An important part of the procedure set forth in the Redevelopment Law for the adoption of a Redevelopment Plan is the consideration and response to written objections, which is required prior to the introduction of the ordinance adopting a redevelopment plan (with which requirement this document is intended to comply). Several written objections (as well as a written statement in support) have been received by the Lodi City Clerk and numerous individuals attended and spoke both in support of and in opposition to the proposed Redevelopment Plan at the joint public hearing held May 28, 2008. Significant efforts (much more than legally required) were made to ensure that the community was provided with all information reasonably necessary to permit individuals in Lodi to evaluate the proposed Redevelopment Plan and ample opportunity was provided for public comment on the proposed plan.<sup>74</sup>

**Comment No. 6:**

*Where will all of the people go that are going to be displaced out of this? Are more houses going to built [sic] over ours and if so is there a new elementary and high school being built since the city is already overcrowded?*

**Response No. 6:**

The proposed Redevelopment Plan does not include the power of eminent domain; thus, all projects involving private property undertaken by the Agency will be based on voluntary participation of Lodi property owners. The implementation of the proposed Redevelopment Plan is not expected to result in significant numbers of displaced persons, but if any displacement occurs as a result of the activities of the Agency, the Agency will comply with all applicable relocation laws, rules and regulations, including without limitation the California Relocation Assistance Law, Government Code Section 7260, *et seq.* Such assistance, if warranted pursuant to applicable laws, may include relocation advisory assistance, payment of actual moving and related expenses and in the case of businesses, the cost of lost business goodwill.<sup>75</sup>

It is unclear what the writer means by “Are more houses going to be built over ours.” The proposed Redevelopment Plan is consistent with the Lodi General Plan and any development which occurs within the proposed Project Area must comply with the Lodi General Plan and zoning ordinances, as they may be amended from time to time. No specific projects are proposed at this time; however, at the time specific projects are considered by the Agency the effect on public services such as educational facilities will be considered, to the extent provided by the California Environmental Quality Act and other applicable laws. No persons, regardless of income, are expected to be displaced by the proposed Redevelopment Plan. The implementation of the proposed Redevelopment Plan is expected to improve the physical and economic conditions within the Project Area and to increase the value of property within the Project Area, which will in turn increase the revenues available to the City, the Agency and the other agencies that levy taxes within the Project Area, including the school districts. For a more detailed discussion, see Response No. 5 to Writing B.

<sup>74</sup>  
<sup>75</sup>

Report to Council, pages 157-167.

See, e.g., Government Code Sections 7261 and 7262.

**Comment No. 7:**

*I completely detest this **project** and there has to be a simpler way of doing **this** than displacing the **low income** people.*

**Response No. 7:**

This statement is the writer's opinion and is vague and unclear as to meaning. As stated above in Response No. 6, the proposed Redevelopment Plan does not include the power of eminent domain; thus, all projects to be undertaken by the Agency will be based on voluntary participation of Lodi property owners. The implementation of the proposed Redevelopment Plan is not expected to result in significant numbers of displaced persons, but if **and** when displacement occurs **as** a result of a redevelopment project, the Agency will comply with all applicable relocation laws, rules and regulations, including without limitation the California Relocation Assistance Law, Government Code Section 7260, *et seq.*

**Comment No. 8:**

*I am **a first time home buyer** and have **owned** my house since **September** of 2007 and had I **had known** all of this **then I would** not have bought **in** this area.*

**Response No. 8:**

The implementation of the proposed Redevelopment Plan is expected to improve the physical and economic conditions within the Project Area **and** to increase the value of property within the Project Area, which will in turn increase the revenues available to the City, the Agency and the other agencies that levy taxes within the Project Area.

April 24 2008

RECEIVED

APR 28 2008

City Clerk  
City of Lodi

City Clerk  
City of Lodi  
221 West Pine Street  
Lodi, CA 95240

I, as a property owner in the proposed City of Lodi Redevelopment Area, hereby lodge a protest against the E.I.R. related to the proposed Redevelopment Agency for the City of Lodi.

The Environmental Impact Report, as presented, does not sufficiently address the effect on the ethnic groups in the proposed area once they have been decreed as living in blight.

The question here is, with the blight stigma attached to them, will they continue to exhibit motivation to improve their living area?

The second question that must be addressed is what effect will the blight label have when these Lodi Citizens will seek financing for improvements on houses and businesses, but will be denied loans because they are in a blighted area?

Respectfully Submitted  
James A. McCarty  
16830 N. Rous Lane  
Lodi, CA 95240

P.S. My immediate interest is that I have property interests in the proposed blighted area.

**Writing E:** James A. McCarty, 16830 N. Rous Lane, Lodi, California 95240, letter received by the Lodi City Clerk on April 28, 2008.

**Comment No. 1:**

*I, as a property owner in the proposed City of Lodi Redevelopment Area, hereby lodge a protest against the E.I.R. related to the proposed Redevelopment Agency for the City of*

*Lodi. The Environmental Impact Report, as presented, does not sufficiently address the effect on the ethnic groups in the proposed area once they have been decreed as living in blight. The question here is, with the blight stigma attached to them, **will** they continue to exhibit motivation [sic] to improve their **living** area?*

**Response No. 1:**

The proposed Redevelopment Plan is intended and designed to alleviate blighting conditions and to provide an additional incentive to property owners within the proposed Project Area to improve and maintain their properties, through economic assistance in the form of rehabilitation grants and loans and the provision of additional needed public improvements to support the existing properties and possible future development within the proposed Project Area.<sup>76</sup> Implementation of the proposed Redevelopment Plan is expected to increase revenues (in the form of tax increment) available to provide public improvements and infrastructure, as well as to provide assistance to individual property owners **and** tenants as described above.<sup>77</sup> Designating **an** area as a redevelopment project area indicates that the local governmental agency has acknowledged that physical and economic conditions existing in the area are inhibiting the **full and** proper utilization **and** development of the area **and** has indicated a willingness **and** commitment to the improvement of such area. The adoption of the proposed Redevelopment Plan is expected to have a positive effect on the property values and viability of properties within the Project Area and is further anticipated to provide **an** incentive for property owners within the Project Area to invest in their properties to **a** greater extent than is currently occurring. **As part** of its redevelopment efforts, the Agency may seek to assist in attracting merchants to serve the needs of the various ethnic groups on the east side.

See the discussion in Response No. 2 to Writing B regarding the numerous cities in California which, despite having adopted redevelopment project areas, do not suffer from a stigma and evidence that property values in redevelopment project areas increase more quickly than in areas not included within a redevelopment project area.

The Comment relative to the sufficiency of the Environmental Impact Report prepared **in** connection with the proposed Redevelopment Plan **was** addressed in the Final Environmental Program Impact Report for the proposed Lodi Community Improvement Project.

**Comment No. 2:**

*The second question that must be addressed is what effect will the blight label have when these **Lodi** Citizens **will seek** financing **for** improvements on houses and businesses, **but** will be denied loans because they are in a blighted area?*

**Response No. 2:**

Designating **an** area as a redevelopment project area indicates that the local governmental agency has acknowledged that physical **and** economic conditions existing in the area are inhibiting the **full** and proper utilization and development of the area and has indicated **a** willingness **and** commitment to the improvement of such area; with tax increment

<sup>76</sup>

Report to Council pages 114-119.

<sup>77</sup>

Report to Council pages 119-122.

financing, such a designation significantly increases the likelihood of and facilitates opportunities for investment in the area. The proposed Redevelopment Plan is intended and designed to alleviate blighting conditions and to provide an additional incentive to property owners within the proposed Project Area to improve and maintain their properties, through economic assistance in the form of rehabilitation grants and loans and the provision of additional needed public improvements to support the existing properties and possible future development within the proposed Project Area.<sup>78</sup> Implementation of the proposed Redevelopment Plan is expected to increase revenues (in the form of tax increment) available to provide public improvements and infrastructure, as well as to provide assistance to individual property owners and tenants as described above.<sup>79</sup> The adoption of the proposed Redevelopment Plan is expected to have a positive effect on the property values and viability of properties within the Project Area. Before the City Council at the May 28, 2008 joint public hearing, Pat Patrick, President and CEO of the Lodi Chamber of Commerce, testified that redevelopment "*attracts private investment*" and leads to **an** increase in property values, increased business opportunities and the creation of new jobs.<sup>80</sup> In addition, the Executive Director of the California Redevelopment Association has determined that between 1993 and 2002, redevelopment activities leveraged between \$194 and \$225 billion in private investment in California."

No empirical evidence **was** presented supporting the thesis that institutional lenders will not *make* loans within redevelopment project areas. In fact, projects within redevelopment project areas are routinely financed by loans by institutional lenders, as may be inferred by the long list of projects instituted by various redevelopment agencies during the fiscal year ended June 30, 2006, **as** listed in Appendix A of the State Controller's Report. This long list of projects includes numerous projects listed in Response No. 1 to Writing A, above.

In addition to the projects discussed in Response No. 1 to Writing A, the City of Clovis and the Clovis Community Development Agency increased jobs, sales tax revenues and property values within that community by working with Anlin Industries to establish and expand this window manufacturer's business, requiring Anlin to obtain private financing for a portion of the project.<sup>82</sup>

**Also**, the publications and articles included in Exhibits D, E and F, which are attached hereto and incorporated herein describe numerous recent significant redevelopment accomplishments of the Cities of Chula Vista, Pleasant Hill and West Sacramento and other redevelopment agencies.<sup>83</sup> Petco Park in San Diego was developed on contaminated property using private and redevelopment moneys and, since 1998, the area has attracted investment in **an** amount of almost \$2 billion.<sup>84</sup> The City of Petaluma has a new theatre district, including a 12 screen cinema complex, a mixed use project and a 4

<sup>78</sup> Report to Council pages 114-119.

<sup>79</sup> Report to Council pages 119-122.

<sup>80</sup> Response No. 2 to Writing B.

<sup>81</sup> See John F. Shirey, *Redevelopment Means Rebuilding Communities*, presented at the 3rd Annual Tools to Revitalize California Communities Conference, July 23, 2004 at Bakersfield, CA.

<sup>82</sup> Exhibit D, attached hereto and incorporated herein.

<sup>83</sup> Exhibits D, E and F, attached hereto and incorporated herein.

<sup>84</sup> Exhibit D, attached hereto and incorporated herein.

level parking garage, developed pursuant to an owner participation agreement with a private developer.<sup>85</sup> These are merely a few of many examples of redevelopment agencies using tax increment revenues to leverage private investment within and for the benefit of redevelopment project areas, which often includes institutional financing and other private sources of funds.

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<sup>85</sup> Exhibit D, attached hereto and incorporated herein.



RECEIVED

**Protest Against:**

2008 MAY 28 PM 12:04

An ordinance of the City Council of the City of Lodi approving and adopting the redevelopment plan for the Lodi community improvement project.

**Citizens Opposed to A Redevelopment Agency and the FEIR**

To the Lodi City Council:

Our ad hoc group of concerned Lodi Citizens categorically reject the adoption of a Redevelopment Agency (RA) by the Lodi City Council. We object to the proposed project and the final program Environmental Impact Report, and any council reliance on the GRC Consultant's Report. Furthermore, we strongly object the proposed project area map as it has undergone a series of gerrymanders that now includes the southern extension of Hutchins Street and a large apartment complex that requires extensive police presence. This new stretch of the project area, even though a far distance from the "east side" was done to show high crime (See GRC report 8.8 High Crime Rate, PG 97). Does this high crime rate justify the need for a RA?

The projected area map shows a number of isolated areas within the projected area map that have been removed from the original map. We submit that the proposed RA map is invalid until each of these changes is explained by the person or persons who made the changes. These changes include any current and future changes.

We hold that there is not sufficient physical blight in the proposed project area to justify a RA. The City of Lodi hired the GRC Consultants to compile a fictitious report to falsify the elements of blight, crime and as many other social and municipal failures as they could think of, all the mesh into the California Community Redevelopment Law. For a large fee GRC or another consultant will falsify blight, where there is none. Therefore, GRC report

(7.0 Socio-Economic Profile, and 8.0 Physical and Economic Conditions, pages 23 and 24) is erroneous.

The proposed area is economically vital experiencing public and private investments. The citizens living in the proposed area make up a young homogenous community. The residential homes are starter houses, serving as the affordable housing. Inspections of the project area show that these homes are being upgraded. The GRC report failed to show that these homes are currently being upgraded. Furthermore, small stores are also starter businesses with a multinational diverse population thriving from extensive new investments in the area and do not need to be redeveloped.

Contrary to the GRC report the proposed project area (the east side) is composed of a healthy blend of foreign born Hispanics, Middle Easterners, and Far Easterners all living in a healthy community. This society is not a burden on the remainder of the City of Lodi; it is in turn very successful and thriving. This group of citizens may have different mores, customs, colors, foods, signs, clothing, and religion; however, the GRC completely missed this element and presented the Lodi City Council an invalid report.

Not included in the GRC report is the existence of six well kept schools in the project area. The success of the education system in the project area will suffer and be denied funding by these divisions. The GRC report in section 8.8, failed to address the Lodi Police Department report of May 13, 2008 showing that crime and gang activity in the area is decreasing. Furthermore, in and about the corridors of the proposed project area, new construction is now underway on Lodi Avenue, Kettleman Lane, and Lockeford Street.

The California Community Redevelopment Law (CRL) at Health and Safety Code sections 33030 and 33021 list several requirements that must be satisfied in order to create a project area:

(GRC Consultants report to City Council, pg. 109)

The proposed project area:

1. the area must have at least one of:
  - a. Physical Blight.....None Present
  - b. Economic Blight.....None Present
2. Blight must cause a lack of proper utilization of area.....None Present
3. Improper Utilization is a burden in entire community.....None Present
4. Lack of private investment in the area.....Lots of new investment
5. Must have a RA to correct.....Not Needed

This Score Card shows some of the current conditions in the project area, the City of Lodi does not need a Redevelopment Agency.

A Redevelopment requires that a portion of its revenues be spent on affordable housing. There is already more affordable housing in the proposed project area than any other place on the City of Lodi. The Project Area (PA) had more schools than any other area in Lodi (Lodi Adult School, Joe Serna Charter School, Lawrence Elementary School, Heritage Primary School, Lodi Academy, and Lodi S.D.A Elementary School).

- The PA has more well maintained churches than any other are in Lodi.
- The PA has a Moslem Mosque.
- The PA has a Buddhist Temple and Hall.
- The PA has a Boys and Girls Club.
- The PA has multiple, well kept soft-ball diamonds.
- The PA has Zuppo Field.
- The PA has DeBenedetti Soft Ball Field.

- The PA has the Grape and Wine Festival Grounds.
- The PA has four parks: Hale Park, Armory Park, Lawrence Park, and Blakely Park.
- The PA has a new parking Garage (North Sacramento Street and East Pine Street).
- The PA has the new Transportation Center (Sacramento and Oak).
- The PA has a new Pharmacy (Lodi Pharmacy on Cherokee Lane).
- The PA has the very successful Rancho San Miguel Market (Cherokee Lane).
- The PA has new construction sites throughout the project area.

In summary, we, the concerned citizens of Lodi opposed to the proposed project, the FEIR, all actions of the Lodi Planning Commission in Certifying original and amended project are maps. We also reject in its entirety the willfully deceitful GRC consultant report to the City Council 5/28/2008. Finally, the clear purpose of this proposed redevelopment project are is to divert future tax increment revenues from new construction in violation of state law court decisions.

Phyllis E. Roche  
1812 Cape Cod Circle  
Lodi, CA 95242-4207

Nicolas Santoyo Razo  
738 South Lee Avenue  
Lodi, CA 95240

John R. Talbot  
800 Maplewood Dr  
Lodi, CA 95240

Eunice Friederich  
425 E. Oak St  
Lodi, CA 95240

Jack Flochert  
331 La Seta Dr  
Lodi CA 95242

Jerald E. Nyle  
327 DEL MONT ST  
LODI, CA, 95242

#### Writing F.

Phyllis E. Roche, 1812 Cape Code Circle, Lodi, California 95242-4207; Nicolas Santoyo Razo, 738 South Lee Avenue, Lodi, California 95240; John R. Talbot, 800 Maplewood Drive, Lodi, California 95240; Eunice Friederich, 425 E. Oak Street, Lodi,

California 95240; Jack J. Lockhart, 331 La Setta Drive, Lodi, California 95242; Jerold E. Kyle, 327 Del Mont Street, Lodi, California 95242, **Protest Against:** An ordinance of the city Council of the City of Lodi approving and adopting the redevelopment plan for the Lodi community improvement project, received by the Lodi City Clerk on May 28, 2008

**Comment No. 1:**

*Our ad hoc group of concerned Lodi Citizens categorically reject [sic] the adoption of a Redevelopment Agency (RA) by the **Lodi City** Council.*

**Response No. 1:**

Pursuant to Section 33100 of the Redevelopment Law, “there is in each community a public body, corporate and politic, known as the redevelopment agency of the community.” Such redevelopment agencies are generally unable to transact business or exercise any powers unless, by ordinance, the legislative body declares that there is a need for **an** agency to function *in the community*,<sup>86</sup> The Lodi City Council authorized the Redevelopment Agency of the City of Lodi to transact business **and** exercise powers under the Redevelopment Law pursuant to Ordinance No. 1675, adopted July 7, 1999. This Written Comment is therefore inapposite at the present time. Insofar as *the* Comment intended an objection to the proposed adoption of the Redevelopment Plan for the Lodi **Community** Improvement Project, such objection is noted. The Redevelopment Plan will achieve increased revenues and enhanced public improvements in the Project Area as discussed herein. See Response No. 6 to Writing A, Response No. 3 to Writing C and Response No. 1 to Writing E; see also Exhibits D and E, providing numerous examples of redevelopment agency activities and achievements in California.

**Comment No. 2:**

*We object to the proposed project and the **final** program Environmental impact Report, and any **council** reliance on **the GRC** Consultant’s Report. Furthermore, **we** strongly object the proposed Project **Area** map as it has undergone a series of gerrymanders that **now** includes the southern extension of Hutchins Street and a large apartment complex that requires **extensive** police presence. This new stretch of project area, even though a **far** distance from **the** “eastside” **was** done to **show** high crime (See **GRC report** 8.8 **High Crime Rate**, PG 97). Does this high crime rate justify the need for a RA?*

**Response No. 2:**

The boundaries of the proposed Project Area have been reviewed and approved by the Lodi Planning Commission and the Lodi Planning Commission has submitted its report and recommendation to the City Council recommending approval of the Redevelopment Plan for the Lodi Community Improvement Project.

The proposed Project Area is comprised of parcels which contain physical and economic conditions which cause blight, or parcels necessary for the effective redevelopment of the Project Area. Section 33031(b)(7) of the Redevelopment Law lists “a high crime rate that constitutes a serious threat to the public safety and welfare” as one economic

<sup>86</sup>

Section 33101 of the Redevelopment Law.

condition that causes blight. The Report to Council and the record available for consideration by the Lodi City Council contains substantial evidence that the proposed Project Area is a blighted area **and** all areas contained therein have been properly included in the proposed Project Area, for the reasons stated above in Response No. 4 to Writing B.

**Comment No. 3:**

*The projected area map shows a number ~~of~~ isolated areas within the projected area map that have been removed from the original map. We submit that the proposed RA map is invalid until **each** of these changes is explained by the person **or** persons who made the changes. These changes include any current and future changes.*

**Response No. 3:**

Some areas have been excluded from the proposed Project **Area** because they are in agricultural use, which would impose additional procedural requirements on the Lodi City Council in connection with the proposed Redevelopment Plan adoption.<sup>87</sup> Other areas have been omitted from the proposed Project **Area** boundaries because they may not be blighted and/or necessary for the effective redevelopment of the entire Project Area, or because **they** are not in urban use and therefore would reduce the percent of acreage within the proposed Project Area that is developed or previously developed for an urban use, or which are integral parts of **an** urbanized area.

**Comment No. 4:**

*We hold that there **is** not sufficient physical blight in the proposed Project Area to justify a RA. The City of Lodi hired the GRC Consultants to compile a fictitious report to falsify the elements of blight, crime **and** as many other social and municipal failures as they **could** think of, all the mesh into [sic] the California **Community** Redevelopment Law. For a large fee GRC or another consultant will falsify blight, where there **is** none. Therefore, GRC report (7.0 Socio-Economic Profile, and 8.0 Physical and Economic Conditions, pages **23 and 24**) is erroneous.*

**Response No. 4:**

As discussed above in Response No. 4 to Writing B, the Report to Council **and** the other evidence and documentation in the record before the Lodi City Council, including the testimony received for and against the proposed Redevelopment Plan at the joint public hearing on May 28, 2008, support the conclusion that the proposed Project Area contains both physical and economic characteristics which cause blight, as defined in Section 33031 of the Redevelopment Law, that the proposed Project Area is predominantly urbanized and that the combination of physical and economic conditions set forth in Section **33031** of the Redevelopment Law is so prevalent and so substantial that it causes **a** reduction of, or lack of, proper utilization of the area to such **an** extent that it constitutes a **serious** physical and economic burden on the **community** that cannot

<sup>87</sup>

*See City of Lodi Planning Commission Staff Report dated April 23, 2008, page 2, at Exhibit H, attached hereto and incorporated herein; see also testimony of City Manager Blair King at the May 28, 2008 joint public hearing explaining the reason for the exclusion of specific property because that property **was** determined to be in agricultural use.*

reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

The staff members of GRC Redevelopment Consultants have extensive experience in the area of redevelopment and evaluating and documenting conditions within proposed redevelopment plans.<sup>88</sup> The record before the Lodi City Council, including the Report to Council, includes evidence of blighting conditions which exist within the Project Area and no portion of the Report to Council or ~~the~~ record to be considered by the City Council has been falsified by City staff or consultants hired by the City in connection with the Redevelopment Plan adoption. Numerous photographs and other data have been provided in the Report to Council, as described in Response No. 1 to Writing B.

**Comment No. 5:**

*The proposed area is economically vital experiencing public and private investments. The citizens **living** in the proposed are make **up** [sic] a young homogenous community. The residential homes are starter houses, sewing as the affordable housing. Inspections of the project area show that these homes are being upgraded. The **GRC** report failed to **show** that these homes are currently being upgraded. Furthermore, small stores are also starter businesses with **a** multinational diverse population thriving **from** extensive new investments in the area and do not need **to** be redeveloped.*

**Response No. 5:**

The Report to Council **and** other documents, testimony and evidence in the record supports the conclusion that the proposed Project Area is **a** blighted area in need of redevelopment, as discussed in Response No. 4 to Writing B. The record contains two specific references to development within the proposed Project Area: The testimony of Ken Bingamax<sup>1</sup>, a Lodi resident who rehabilitated his business with assistance from federal Community Development Block Grant moneys administered by the City and the testimony of Beth Kim, a Lodi resident and prior owner of a hotel located on Cherokee Lane in the Project Area, who is now developing a new hotel within the City (but outside the Project Area) and **who** strongly supported the adoption of the proposed Redevelopment Plan, because of the unsafe **and** generally unappealing appearance of Cherokee Lane. Other than these, the record is devoid of specific references to new development or rehabilitation of residential or commercial structures, or other new investment within the Project Area, which has not been funded in whole or **part** using aid from the City of Lodi.<sup>89</sup> Conversely, the record contains substantial evidence to **support a**

<sup>88</sup>

See Exhibit A, attached hereto and incorporated herein, containing resumes of the GRC Redevelopment Consultants staff people **who** prepared the **Report to Council**, as well as the resume of Don Fraser ~~of Fraser & Associates~~, who assisted ~~with~~ the preparation of the Report to Council.

<sup>89</sup>

The statement set **forth in** Writing F, quoted below **as** Comment No. 9, that “new construction **is** now underway on Lodi Avenue, Kettleman Lane **and** Lockeford Street” **is** extremely vague, as is the statement in Writing F, set **forth** below **as** Comment No. 13, that “*The PA has new constructions (sic) sites throughout the project area.*” No information about the type or extent of development, whether it is new construction or rehabilitation, business or residential, or the specific location **of** such alleged development is given. The parking garage **and** transportation center referenced in Comment No. 13 below were both developed entirely **using** public funds.

determination that the proposed Project Area is blighted and in need of redevelopment to assist in the elimination of the many blighting conditions found in the Project Area.

The age of the current residents in the proposed Project Area is not determinative as to whether this area suffers physical **and** economic conditions which cause blight. Nor is the diverse national background of the residents of the Project Area determinative of whether this area is blighted.

**Comment No. 6:**

*Contrary to the GRC report the proposed Project Area (the east side) **is** composed of a healthy blend ~~of~~ foreign born Hispanics, Middle Easterners, and Far Easterners all living in a healthy community. This society is not a burden on the remainder ~~of~~ the **City** of Lodi; it is in turn very successful and thriving. **This** group of citizens may have different **mores**, customs, **colors**, **foods**, signs, clothing, and religion; however, the GRE completely missed this element and presented the **Lodi** City Council an invalid report.*

**Response No. 6:**

The Report to Council does not describe the ethnic **mix** within the proposed Project Area, **as** the nationality of the residents and business owners within the proposed Project Area is irrelevant, to a determination that the proposed Project Area is affected by economic and physical conditions which work together to cause blight. Nothing in the Report to Council or the remainder of the record before the City Council argues that the ethnicities or nationalities of the residents or business owners is itself a blighting characteristic or otherwise causes blight. Conversely, however, the **mix** of nationalities within the proposed Project Area does not eliminate the dilapidation, deferred maintenance, lack of public infrastructure, hazardous materials contamination, high crime rate and other blighting conditions which the Report to Council **and** other evidence **and** testimony in the record before the City Council shows to exist within the proposed Project Area, which characteristics have been shown to work together to cause blight within the Project Area that private enterprise alone has been and continues to be unable to remedy without public assistance. These blighting conditions in the Project Area, described in more detail in Response No. 4 to Writing B, constitute **a** burden on the remainder of the City of Lodi, **as** shown by evidence and statistical information set forth in the Report to Council **at** pages **39-43** (public infrastructure deficiencies) and 97-99 (high crime rates). The Report to Council contains all required evidence **and** analysis required by Section **33352** of the Redevelopment Law, as well as substantial evidence to support a finding that the Project **Area is** urbanized, blighted and in need of redevelopment to correct the blighting conditions found therein and is therefore a valid report as set forth in the Redevelopment Law.

**Comment No. 7:**

*Not included in the **GRC** report is the existence of six well kept schools in the project area. The success of the education system in the **project** area will suffer and be denied funding **by** these divisions.*

**Response No. 7:**

The Report to Council did not deny the existence of well kept schools within the proposed Project Area; however, Ken Bingamax<sup>1</sup> presented testimony at the May 28,



2008 joint public hearing that the schools in the City of Lodi are already inferior due to a lack of funding, resulting in Mr. Bingamaxl's decision to send his children to private schools. The purpose of redevelopment is to provide for increased development, better maintenance of buildings, reduction in criminal activities and reduction in hazardous material within the project area, among other activities, **all** of which lead to the expectation that implementation of the proposed Redevelopment Plan will likely improve the physical and economic conditions within the Project Area **and** increase the value of property within the Project Area, which will in turn increase the revenues available to the City, the Agency and the other agencies that levy taxes within the Project Area, including the school districts. For further discussion and analysis showing that schools and other taxing agencies receive increased **tax** revenues **as** a result of the implementation of a redevelopment plan than without and describing the payments made by redevelopment agencies to school districts and community college districts in the 2005-2006 fiscal year, see Response No. 5 to Writing B.

Comment No. 7 asserts that *the* schools in the Project Area are well kept and successful; however, the Report to Council contains evidence that the Project Area experiences a higher crime rate than the rest of the community and that the Project Area is a center of gang activity in Lodi.<sup>90</sup> Crime and gang activities can be expected to reduce the effectiveness and success of public educational facilities.

**Comment No, 8:**

*The GRC report in section 8.8, failed to address the Lodi Police Department report of May 13, 2008 showing that crime and gang activity in the urea is decreasing.*

**Response No. 8:**

The document referred to by Comment No. 8 is not, in fact, a police report, but rather a Lodi News-Sentinel article, which concludes with the statement that due to the efforts of the Lodi Police Department, **Lodi** has seen a recent decrease in gang activity. Notwithstanding this article, according to the Lodi Police Department, the Project Area remains the center of **gang** activity within the City, with a much higher occurrence of gang activity **than** is found outside the Project Area. Police Department staff report that gang activity tends to be cyclical, in that after long term, aggressive efforts on behalf of the Police Department, gang activity will be reduced due to the incarceration of large numbers of active gang members; however, as those gang members are released from jail and children within the community **grow** up to become new gang members, the frequency of gang-related crimes, including violent crimes, increases again.

Additionally, the Lodi **Police** Department reports that the Project Area suffers from a comparatively higher crime rate, **including** serious, "Part 1" crimes, **than** the remaining areas within the City of Lodi.<sup>91</sup> The Lodi Police Department has reported that the central portion of the Project Area has the highest concentration of **major** crimes? Further, between 2005 and 2007, **54%** of calls for service to the Lodi Police Department originated in the Project Area, while only 25% of **the** City's population lives in the

<sup>90</sup> See discussion in Response No. 8 to Writing F.  
<sup>91</sup> Report to Council, pages 97-99.  
<sup>92</sup> Report to Council, pages 97-98.

Project Area.<sup>93</sup> In 2007, the Project Area's Part 1 crime rate was 107 crimes per thousand persons, while the crime rate in the balance of the City ~~was~~ **30** crimes per thousand persons.<sup>94</sup>

**Comment No. 9:**

*Furthermore, in and about the corridors of the proposed Project Area, new construction ~~is now~~ underway on Lodi Avenue, Kettleman Lane, and Lockeford Street.*

**Response No. 9:**

No specific evidence is provided to support the assertion made by Comment No. 9. Further, each of the streets identified in the Comment contain numerous blighting conditions:

Lodi Avenue: Contains incompatible adjacent land uses primarily between Hutchins Street and Highway 99.<sup>95</sup> Water pipes in this street are sized six inches or smaller and require replacement to improve pressure and flow in the water system.<sup>96</sup> The street's pavement condition index is lower ~~than~~ 50 out of 100 and requires ~~reconstruction~~.<sup>97</sup> The wastewater pipes in this street ~~are~~ more than 50 years old and require lining or replacement.<sup>98</sup>

Kettleman Lane: ~~Is~~ within the site of ~~the~~ City's highest concentration of major crimes.<sup>99</sup> The wastewater pipes in this street are more than 50 years old and require lining or replacement.<sup>100</sup>

Lockeford Street: The wastewater pipes in this street are more than 50 years old and require lining or replacement.<sup>101</sup> The street's pavement condition index is lower ~~than~~ 50 out of 100 and requires reconstruction.<sup>102</sup> Residential lots on this street east of Washington Street have no frontage ~~and~~ are accessed only by ~~an~~ alley.<sup>103</sup> Residential lots on this street east of Pleasant Avenue are only 45 feet wide.<sup>104</sup>

**Comment No. 10:**

*The California Community Redevelopment Law (CRL) at Health and Safety Code sections 33030 and 33021 list several requirements that must be satisfied in order to create a project area:*

*(GRC Consultants report to City Council, p g 109)*

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<sup>93</sup> Report to Council, page 98.

<sup>94</sup> Report to Council, page 98.

<sup>95</sup> Report to Council, page 67.

<sup>96</sup> Report to Council, page **43**.

<sup>97</sup> Report to Council, page **42**.

<sup>98</sup> Report ~~to~~ Council, page **41**.

<sup>99</sup> Report to Council, pages **97-98**.

<sup>100</sup> Report to Council, page **41**.

<sup>101</sup> Report to Council, page 41.

<sup>102</sup> Report to Council, page **42**.

<sup>103</sup> Report to Council, page 74.

<sup>104</sup> Report to Council, page 74.

**The proposed Project Area:**

1. the area must have at least one of:
    - a. Physical Blight.....None Present
    - b. Economic Blight.....None Present
  2. Blight must cause a lack of proper utilization of area.....None Present
  3. Improper Utilization is a burden in entire community .....None Present.
  4. Lack of private investment in the area.....Lots of new investment
  5. Must have a RA to correct .....Not Needed
- This Score Card shows some of the current conditions in the project area, the City if Lodi does not need a Redevelopment Agency.*

**Response No. 10:**

The Comment generally has some similarities to but does not correctly set forth the tests for blight; see Sections 33030 and 33031 of the Redevelopment Law as set forth at Exhibit I. Moreover, the Comment incorrectly describes the Project Area and the blighting conditions existing therein. It further provides no factual data, citations to data or credentials in support of its assertions. In contrast, the record before the City Council contains significant amounts of specified, quantified data supportive of a finding of blight. Some examples of this data are briefly described below.

<u>Legal Requirement</u>	<u>Evidence</u>
Physical blight	<p>The Project Area is burdened by the existence of extensive groundwater contamination that threatens the health and safety of the City's residents.<sup>105</sup></p> <p>Approximately 1,830 properties in the Project Area contain buildings that were construction prior to the abolition of asbestos and lead-based paint as building materials. The existence of these materials in structures throughout the Project Area renders those buildings unsafe or unhealthy places in which to live or work.<sup>106</sup></p> <p>Numerous properties in the Project Area are unsafe or unhealthy due to their extensive dilapidation.<sup>107</sup></p> <p>Forty-five percent of the commercial properties in the Project Area are commercially obsolete in one or more category.<sup>108</sup></p>

<sup>105</sup> Report to Council, pages 26-27.

<sup>106</sup> Report to Council, page 28-29.

<sup>107</sup> Report to Council, pages 30-32.

<sup>108</sup> Report to Council, pages 35-36.

<b><u>Legal Requirement</u></b>	<b><u>Evidence</u></b>
	<p>The Project Area is hampered by inadequate infrastructure and public facilities; the cost of these facilities and infrastructure is estimated at more than \$148,000,000.<sup>109</sup></p> <p>The Project Area contains <b>293</b> properties without landscaping, containing residential overcrowding, damaged by graffiti and/or utilizing barbed- or razor-wire.'"</p> <p>See also the discussion at Response No. 1 to Writing B.</p>
Economic blight	<p>The Project Area is characterized by stagnant property values and a lack of property re-investment.<sup>111</sup></p> <p>The Project Area is burdened by the existence of hazardous waste that has caused extensive groundwater contamination that threatens the health and safety of the City's residents.'"</p> <p>The Project Area is characterized by high business vacancies, low lease rates and abandoned buildings. The Project Area is burdened by the existence of extensive groundwater contamination that threatens the health and safety of the City's residents.<sup>113</sup></p> <p>The Lodi Police Department has reported that the central portion of the Project Area has the highest concentration of major crimes.<sup>114</sup> Further, between 2005 and 2007, 54% of calls for service to the Lodi Police Department originated in the Project Area, while only 25% of the City's population lives in the Project Area.'" In 2007, the Project Area's Part 1 crime rate was 107 crimes per thousand persons, while the crime rate in the balance of the City was 30 crimes per thousand persons.<sup>116</sup></p> <p>See also the discussion at Response No. 1 to Writing B.</p>
Blight causes a lack of proper utilization of the area	<p>The Project Area shows <b>many</b> effects of blight including a median household income that is significantly lower than the City's median income and the County's median income; per capita income that is significantly lower than</p>

<sup>109</sup> Report to Council, pages 39-43.

<sup>110</sup> Report to Council, pages 44-66.

<sup>111</sup> Report to Council, pages 80-83.

<sup>112</sup> Report to Council, pages 26-27.

<sup>113</sup> Report to Council, pages 83-97.

<sup>114</sup> Report to Council, pages 97-98.

<sup>115</sup> Report to Council, page 98.

<sup>116</sup> Report to Council, page 98.

<b><u>Legal Requirement</u></b>	<b><u>Evidence</u></b>
	the City's median income and the County's median income; lower rate of homeownership than both the City and the County; 35% of the households in the Project Area earn less <del>than</del> 50% of the county median income as compared to 24% for the City as <del>a</del> whole; and <del>an</del> average year of construction of 1961 for structures in the Project Area compared to 1972 for the City and <b>1973</b> for the County. <sup>117</sup> The blighting conditions in the Project Area hinder proper utilization of properties throughout the Project Area. <sup>118</sup>
Improper Utilization is a burden on the community	The groundwater contamination and other conditions of physical and economic blight limit the viable use of properties in the Project Area. The estimated cost to improve just the infrastructure in the proposed Project Area is over \$148,000,000. The City must also pay more than \$46,000,000 for groundwater <del>cleanup</del> . <sup>119</sup> These two factors alone establish that the blighting conditions in the Project Area are a substantial burden on the community. <sup>120</sup>
Lack of Private Investment in the Area	The Comment diverges from the tests set forth in Sections <b>33030</b> and <b>33031</b> <del>of</del> the Redevelopment Law. The Comment provides no citation for the proposition that there <del>exists</del> "Lots of new investment" in the Project Area.
Must have a RA to correct	This is not a requirement of the Redevelopment Law <del>and</del> the Comment provides no citation for the proposition that redevelopment is "not needed."  Further, the groundwater contamination and other conditions of physical and economic blight limit the viable use of properties <del>in</del> the Project Area. The estimated cost to improve just the infrastructure in the proposed Project Area is over \$148,000,000. The City must also pay more than \$46,000,000 for groundwater <del>cleanup</del> . <sup>121</sup> The private sector, acting alone has not and cannot address these issues.

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<sup>117</sup> Report to Council, **page 24**.

<sup>118</sup> **Report to** Council, *page* 109-110.

<sup>119</sup> *See* footnote 65.

<sup>120</sup> Report to Council, **pages 110-1 11**.

<sup>121</sup> Report **to** Council, **pages 110-1 11**.

**Comment No. 11:**

*A Redevelopment requires that a portion of its revenues be spent on affordable housing. There is already more affordable housing in the proposed Project Area than any other place on the City of Lodi*

**Response No. 11:**

Comment No. 11 accurately notes that redevelopment agencies must spend a portion of their revenues on affordable housing. However, the assertion that there is “already more affordable housing in the proposed Project Area than any other place on the City of Lodi” is without citation or factual support. Further, the Redevelopment Plan will authorize **and** enable the Agency to provide programs to (a) improve the appearance and attractiveness of residential neighborhoods through neighborhood improvement programs, code enforcement efforts and residential rehabilitation programs; (b) protect the health and general welfare of the Project Area's low- and moderate-income residents by utilizing 20% of the property tax increment revenues to improve, increase and preserve the supply of low- and moderate-income housing; (c) provide replacement housing **as** required by law if any dwelling Units affordable to low- or moderate-income persons or families are lost from the housing **supply** as a result of Agency activities; (d) provide relocation assistance to businesses and households, if any, displaced by Agency activities; and (e) provide housing rehabilitation programs to upgrade properties to eliminate blight and adverse code conditions.<sup>122</sup>

Regardless of the current cost of housing within the Project Area, if and when the Agency provides new affordable dwelling units in implementation of the Redevelopment Plan the Agency will place covenants on most if not all affordable dwelling units developed or substantially rehabilitated with assistance from the Agency, ensuring that such units remain affordable to persons and families of low- **and** moderate-income for at least **45** years (in the case of owner-occupied housing) **and 55** years (in the case of rental housing).<sup>123</sup> This will ensure that such units remain available to such low- **and** moderate-income households at **an** affordable housing cost regardless of whether average property values increase within the Project Area, which is one of the intended goals of the proposed Redevelopment **Plan**.

**Comment No. 12:**

*The Project Area (PA) had more schools than any other area in Lodi (Lodi Adult School; Joe Serna Charter School, Lawrence Elementary School, Heritage Primary School, Lodi Academy, and **Lodi** S.D.A Elementary School).*

**Response No. 12:**

The existence of schools does not indicate **an** absence of blighting conditions within the proposed Project Area.

<sup>122</sup>

Report to Council, page 6.

<sup>123</sup>

Section 33334.3(f)(1) of the Redevelopment Law.

**Comment No. 13:**

- *The PA has more well maintained churches than any other are [sic] in Lodi.*
- *The PA has a Moslem Mosque.*
- *The PA has a Buddhist Temple and Hall.*
- *The PA has a Boys and Girls Club.*
- *The PA has multiple, well kept soft-ball diamonds.*
- *The PA has Zuppo Field.*
- *The PA has DeBenedetti Soft Ball Field.*
- *The PA has the Grape and Wine Festival Grounds.*
- *The PA has four parks: Hale Park, Armory Park, Lawrence Park, and Blakely Park.*
- *The PA has a new parking Garage (North Sacramento Street and East Pine Street).*
- *The PA has the new Transportation Center (Sacramento and Oak).*
- *The PA has a new Pharmacy (Lodi Pharmacy on Cherokee Lane).*
- *The PA has the very successful Rancho San Miguel Market (Cherokee Lane).*
- *The PA has new constructions [sic] sites throughout the project area.*

**Response No. 13:**

The existence of churches, mosques, Buddhist temples and other facilities, a Boys and Girls Club facility and athletic facilities, parks and festival grounds does not indicate an absence of blighting conditions within the proposed Project Area.

City staff have indicated that the parking garage located at North Sacramento Street and East Pine Street in the proposed Project Area was completed in 2002 and was developed entirely with public funds. The transportation center located at Sacramento and Oak in the Project Area was completed in 2000. This development consisted of relocating an abandoned train depot south by one block, renovating it and building a new sidewalk, parking lot, driveway, train platform and other ancillary improvements. This development was also built entirely with Federal Transportation Agency (public) funds.

These public improvements are examples of the improvements that may be funded by the Redevelopment Agency, using tax increment revenues, if the proposed Redevelopment Plan is adopted. The Agency's ability to fund much needed public improvements such as transportation and parking facilities will significantly reduce the burden which the Project Area places on the community by freeing up greatly needed City funds for other purposes.

City staff indicated that the new pharmacy located on Cherokee Lane opened in October 2007 and occupies a previously vacant building. One new business within the Project Area does not negate the overwhelming evidence of other blighting conditions within the Project Area. It should be noted that less than two months after the pharmacy opened, a break-in occurred; a safe containing cash and about \$1,800 worth of prescription narcotics were stolen from the pharmacy, according to the Lodi Police Department. The

Project Area has a significantly higher crime rate, as shown not only by this anecdote but also by statistics and evidence cited in the Report to Council.<sup>124</sup>

The Rancho San Miguel Market on Cherokee Lane in the Project Area has been open for business since 2004. While Comment No. 13 of Writing F, asserts that the Rancho San Miguel Market is “very successful,” no empirical support is provided to support this statement. The City cannot verify the success of this business. Any success enjoyed by the Rancho San Miguel Market is likely aided by the fact that **only** one other similar grocery store (providing a full line of groceries, including fresh produce and deli) is located within the Project Area. That other market, the “S-Mart” on Lodi Avenue at California Street, is located one and one-half miles away from the Rancho San Miguel Market.

The City of Lodi spent **\$4** million in 1998 to repave Cherokee Lane and to add a landscaped median and new streetlights. Additional public investment in Cherokee Lane **was** supported and even requested by several people who offered testimony in support of the proposed Redevelopment Plan at the May 28, 2008 joint public hearing.<sup>125</sup> In addition, several individuals testified at the joint public hearing that Cherokee Lane is unsafe and unappealing and acts as a deterrent to potential tourists as well as to investment in the Project Area.<sup>126</sup>

City Council member Bob Johnson made this point when he spoke after the joint public hearing but prior to the close of the City Council meeting held May **28**, 2008. Councilman Johnson described his experience as a real estate appraiser, which was his business until one year ago when he retired. In **his** business, Councilman Johnson had the opportunity to drive through the entire proposed Project Area and to experience first hand the blighting conditions that exist there. He also described his experience hearing from the residents of the Project Area who, over many years, have expressed a feeling that they are neglected and not given their fair share of benefits. He stated that issues such as absentee landlords, decayed **infrastructure** and a continuing need for investment in the Project Area and indicated that these sentiments had been expressed by members of the community numerous times.

No information about the type or extent of development, whether it is new construction or rehabilitation, business or residential, or the specific location of such alleged development is given.

#### **Comment No 14:**

*In summary, we, the concerned citizens of Lodi opposed to the proposed project, the FEIR, all actions of the Lodi Planning Commission in Certifying original and amended project are maps. We also reject in its entirety the willfully deceitful GRC consultant report to the City Council 5/28/2008 [sic].*

#### **Response No. 14:**

This Comment states the author’s opinion.

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<sup>124</sup> See discussion in Response No. 8 to **Writing F**.

<sup>125</sup> Testimony of Ken Bingam, **Dale** Gillespie, Nancy Beckman, Beth Kim and Steve Spiegel at the May 28, 2008 joint public hearing.

<sup>126</sup> Testimony of Nancy Beckman and Beth **Kim** at the May 28, 2008 joint public hearing.



**Comment No. 15 :**

*Finally, the clear purpose of this proposed redevelopment project are ~~is~~ [sic] to divert future tax increment revenues from new construction in violation of state law court decisions.*

**Response No. 15:**

Courts in California have upheld numerous redevelopment project areas upon a determination that substantial evidence exists in the record to support a finding by the city council that the project area is blighted as required by the Redevelopment Law. One example is *Evans v. City of San Jose* (2005) 128 Cal.App.4th 1123, discussed in ~~Part~~ **Part** II, *supra*, which upheld findings made by the City Council of the City of ~~San~~ **San** Jose in creating ~~a~~ **a** new project area within the City of San Jose. See the more detailed discussion and analysis set forth in Part II, *supra*. The Agency would not divert revenues in violation of law.

As described in pages 25 through 105 of the Report to Council, the record before the Lodi ~~City~~ **City** Council is replete with specific, documented examples of the occurrence and pervasiveness of similar features within the Project Area. See also the discussion in Response No. 1 to Writing **B** for a description of blighting conditions in the Project Area, as well as the discussion in Response No. 5 to Writing **B** for ~~a~~ **a** discussion of the benefits of redevelopment to other entities, including school districts in particular, that levy taxes within redevelopment project areas.

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## NO on REDEVELOPMENT

**Lodi, Wake up! Why do we need the Redevelopment Agency to tell Lodi how to go into debt? The RDA will have the power to sell bonded debt without any voter approval.**

**Our Lodi Council is in debt \$200 million dollars on loans. The \$47 million worth of electric utility bonds will jump to \$64.3 million to get fixed rate on interest. Expect an increase of 5 percent for your electricity by 2010.**

**The RDA will be calling the shots for 40 years. It will have a debt ceiling of about \$400. million dollars. It is a separate state agency from Lodi Government. When the consultant's findings of blight are certified, a law firm is retained to draw up the paperwork & to defend against any legal challenges. Then the bond brokers can start borrowing. Lodi City Council has spent \$300, thousand for the Redevelopment Agency to find blight.**

**Smart-Lodi does not think the map RDA shows is 100% blighted. It's time for Lodi registered voters to be able to vote No on Redevelopment.**

*Barbara Flockhart  
331 La Setta Drive  
Lodi, Ca. 95242*

**Writing G:** Barbara Flockhart, 331 La Setta Drive, Lodi, California 95242, writing received by the Lodi City Clerk May 28, 2008.

**Comment No. 1:**

*Lodi, Wake up! Why do we need the Redevelopment Agency to tell Lodi **how** to go into debt? **The RDA will have the power to sell bonded debt without any voter approval.***

**Response No. 1:**

As pointed out by Chuck Easterling's testimony at the joint public hearing on May 28, 2008, one apparent reason for the opposition to redevelopment expressed by the citizens of Lodi is rooted in a fundamental misunderstanding of tax increment **and** the methods of financing a redevelopment project. As discussed in Response No. 6 to Writing A, the debt of a redevelopment agency is not debt of the host city. Bonds which are issued by a redevelopment agency and secured by tax increment revenues are not secured by the general funds of the host city, nor do such bonds incorporate a lien against **any** real property within the city or the project area. The issuance of bonds by a redevelopment agency does not and cannot result in an increase in property taxes. Obligations entered into by a redevelopment agency are not obligations of members of the public or the City.

The statement that, if the Redevelopment Plan is adopted, the Agency will have the power to sell bonded debt without first obtaining voter approval is a correct statement. However, the City currently may incur certain obligations without a vote and, thus, the import of the Comment is unclear.

**Comment No. 2**

*Our Lodi Council is in debt \$200 million dollars on loans. The \$47 million worth of electric utility bonds will jump to **\$64.3** million to get fixed rate on interest. Expect **an** increase of 5 percent for **your** electricity by 2010.*

**Response No. 2:**

The outstanding debt for the City of Lodi as of June 30, 2008 comprises the following amounts by fund:

General Government	\$23,759,452
Electric Fund	80,750,000
Wastewater Fund	57,740,000
Water Fund	<u>1,754,606</u>
<b>Total Principal Owed</b>	<b>\$164,004,058</b>

The \$200 million figure referred to in Comment No. 2 presumably includes both interest and principal payments. It is inaccurate to say that the indebtedness of the City of Lodi is over \$200 million. The City's financial statements and the balance sheets of other governments do not show interest payments to be made in the future as outstanding debt unless they have not been paid when they become due and payable.

The statement: "The \$47 million worth of electric utility bonds will jump to **\$64.3** million to get fixed rate on interest" is vague and unclear. The electric utility bonds issued by the

City and the amount charged the taxpayers in Lodi for electricity is unrelated and will not be affected by the adoption of the Redevelopment Plan.

As discussed in Response No. 6 to Writing A, the debt of a redevelopment agency is not debt of the host city. Bonds which are issued by a redevelopment agency and secured by tax increment revenues are not secured by the general funds of the host city, nor do such bonds incorporate a lien against any real property within the city or the project area. The issuance of bonds by a redevelopment agency does not and cannot result in an increase in property taxes. Obligations entered into by a redevelopment agency are not obligations of members of the public or the **City**.

To date, the cost of improvements has been borne by the City; the cost of such improvements to the City has limited and negatively impacted other General Fund operations such as police, fire and park maintenance.

**Comment No. 3:**

*The RDA **will** be ~~calling~~ the shots for 40 years. It will have a debt ~~ceiling~~ of about \$400. [sic] million dollars.*

**Response No. 3:**

The Redevelopment Plan limits the term of effectiveness of the Redevelopment Agency's actions under the Redevelopment Plan to a term of **30** years from the date of adoption of the ordinance adopting the plan.<sup>127</sup> After the expiration of this 30 year term of effectiveness, the Agency "shall have no authority to act pursuant to [the Redevelopment Plan], except to pay previously incurred indebtedness, to enforce existing covenants or contracts, including nondiscrimination and nonsegregation provisions, which shall run in perpetuity, to complete its housing obligations in accordance with [Sections 33333.2 and 33333.8 of the Redevelopment Law], and to take any other actions permitted by law."<sup>128</sup> The Agency will continue to receive tax increment revenues for an additional 15 years past the date the effectiveness of the Redevelopment Plan expires.<sup>129</sup>

The proposed Redevelopment Plan imposes a \$400 million limitation on the total outstanding principal of any bonds issued and payable from tax increment.<sup>130</sup> It is important to note that the proposed Redevelopment Plan prohibits the Agency from incurring "loans, advances, or indebtedness to finance, in whole or in part, [the proposed Lodi Community Improvement Project] and to be repaid from the allocation of taxes described in [Section 33670 of the Redevelopment Law]" beyond 20 years from the adoption of the ordinance adopting the Redevelopment Plan.<sup>131</sup> The \$400 million limit also takes into account the circumstance that the schools may wish to have their pass through payments included in one or more future Agency bond issues (see Table 14 in the Report to Council).

<sup>127</sup> DRAFT Plan for the Lodi **Community** Improvement Project dated April 18, 2008, at page 37.

<sup>128</sup> DRAFT Plan for the Lodi **Community** Improvement Project dated April 18, 2008, at pages 37-38.

<sup>129</sup> DRAFT Plan for the Lodi **Community** Improvement Project dated April 18, 2008, at page 35.

<sup>130</sup> DRAFT Plan for the Lodi **Community** Improvement Project dated April 18, 2008, at page 34.

<sup>131</sup> DRAFT Plan for the Lodi **Community** Improvement Project dated April 18, 2008, at page 34.

As for the notion that the Redevelopment Agency would “call the shots,” it should be kept in mind that the governing board of the Agency consists solely of the elected City Council of the City of Lodi.

**Comment No. 4:**

*It is a separate state agency from Lodi Government.*

**Response No. 4:**

The Redevelopment Agency is a separate legal entity from the City of Lodi, but the governing body of the Redevelopment Agency is made **up** of the same five persons elected to serve as the Lodi City Council. Thus, while the Redevelopment Agency can enter into contracts and incur debt, for example, without in any way binding or obligating the City of Lodi, the decisions of both the governing board of the Redevelopment Agency and the City Council will be made taking into account the best interests of the City of Lodi and its citizens and the City and Agency will be able to work in conjunction with each other and coordinate the resources of the City and Agency to provide services, facilities and assistance to the citizens of the City of Lodi.

**Comment No. 5:**

*When the consultant's findings of blight are certified , [sic] a law firm is retained to draw up the paperwork & to defend against any legal challenges. Then the bond brokers can start borrowing. Lodi City Council has spent \$300, [sic] thousand for the Redevelopment Agency to find blight.*

**Response No. 5:**

The City Council, not a consultant, would make findings.

If the adoption of the Redevelopment Plan is challenged in court, the City will be required to answer the complaint. How the City may handle such a situation is not known at this time. If the Redevelopment Plan is adopted, the Agency may decide to issue bonds or other debt secured by future tax increment revenues, as permitted by law.

Any City wishing to adopt a redevelopment plan in accordance with the Redevelopment Law must spend a substantial amount of money to do so. The Redevelopment Law requires substantial evidence of blight, a meaningful analysis regarding blight **and** the need **for** redevelopment in the proposed Project Area and a variety of other documentation **and** analyses including an Environmental Impact Report, Relocation Plan, Preliminary Redevelopment Plan, Preliminary Report and Report to City Council.<sup>132</sup> Yet this cost and effort is well worth the ultimate benefits of redevelopment, which provide a blighted community with the tools necessary to remedy blighting conditions and provide needed assistance and incentives to investment in the project area.<sup>133</sup>

<sup>132</sup>

See, e.g., Redevelopment Law Sections 33325, 33333.3, 33344.5, 33352 and 33352(f).

<sup>133</sup>

See, e.g., testimony at the joint public hearing of May 28, 2008, of Beth Kim, a resident and hotel owner in Lodi, stating that redevelopment is a much needed tool in the project area.

Any contracts to be entered into by the City and/or Redevelopment Agency in implementation of the proposed Redevelopment Plan (including contracts relating to financial matters) will be brought back to the City Council and/or Redevelopment Agency board for consideration and approval or disapproval, as applicable, at a public meeting. Adoption of the Redevelopment Plan will not constitute approval of any contract, nor will the Redevelopment Plan authorize approval of any contract without prior consideration at a public meeting in accordance with the law.

To date, the Agency has paid less than \$200,000 for consulting **and** advisory services in connection with the consideration of adoption of the proposed Redevelopment Plan; that figure will increase due to ongoing work (such as preparation for and attendance at the joint public hearing and the preparation, in conjunction with staff, of responses to objections, but is anticipated to fall well below the \$300,000 figure mentioned in the Comment.

**Comment No. 6:**

*Smart-Lodi does not think the map RDA shows is 100% blighted.*

**Response No. 6:**

In her testimony before the City Council at the May 28, 2008 joint public hearing, Ms. Barbara Flockhart stated that the Project Area is not 100% blighted, but she acknowledged immediately that blight does exist within the Project Area. The membership or qualifications of “Smart-Lodi” was not indicated,

The Redevelopment Law does not require that a redevelopment project area be 100% blighted. Section 33030 of the Redevelopment Law states:

“(a) It is found and declared that there exist in **many** communities blighted areas that constitute physical and economic liabilities, requiring redevelopment in the interest of the health, safety, **and** general welfare of the people of these communities and of the state.

“(b) A blighted area is one that contains both of the following:

“(1) **An** area that is predominantly urbanized, as that term is defined in Section 33320.1, and is **an** area in which the combination of conditions set forth in Section **33031** is *so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.*

“(2) **An** area that is characterized by *one or more conditions* set forth in any paragraph of subdivision (a) of Section **33031** and *one or more conditions* set forth in any paragraph of subdivision (b) of Section **33031**.

“(c) A blighted area that contains the conditions described in subdivision (b) may also be characterized by the existence of inadequate public improvements or inadequate water or sewer utilities.”

Substantial evidence is set forth in the Report to Council and the record before the Lodi City Council to support a determination that the Project Area is a blighted area within the meaning of Section 33030 of the Redevelopment Law. See Response No. 1 to Writing B for a *summary* of the substantial evidence of blight contained in the record.

Importantly, Section 33321 provides:

“A project area need not be restricted to buildings, improvements, or lands which are detrimental or inimical to the public health, safety, or welfare, but may consist of **an** area in which such conditions predominate and injuriously affect the entire area. A project area may include lands, buildings, or improvements which are not detrimental to the public health, safety or welfare, but whose inclusion is found necessary for the effective redevelopment of the area of which they are a **part**. Each such area included under this section shall be necessary for effective redevelopment **and** shall not be included for the purpose of obtaining the allocation of tax increment revenue **from** such area pursuant to Section 33670 without other substantial justification for its inclusion.”

No portion of the proposed Project Area has been included for the purpose of obtaining the allocation of tax increment revenue from such area pursuant to Section **33670** of the Redevelopment Law without other substantial justification for its inclusion. **In** fact, as stated by City Manager Blair King at the May 28, 2008 joint public hearing in response to **an** inquiry by Mr. Ed Atwood, portions of the Project Area which are in agricultural use were removed. See also Planning Commission staff report dated April 23, 2008, discussing the exclusion of territory from the proposed Project Area, which is attached hereto as Exhibit H and incorporated herein.

**Comment No. 7:**

*It's time for Lodi registered voters to be able to vote No on Redevelopment.*

**Response No. 7:**

The California Legislature has delegated the authority for determining what areas are blighted and in need of redevelopment to the legislative bodies of cities **and** counties in which proposed redevelopment project areas are located. The Lodi City Council, and not the citizens of Lodi, has the authority to determine whether the Project Area is a blighted area within the meaning of Section 33030 of the Redevelopment Law and whether adoption of the Redevelopment Plan and Project Area is **an** appropriate means of responding to and remedying the blighting conditions within the Project Area.<sup>134</sup> The Redevelopment Law permits a referendum petition to be filed in response to **an** ordinance adopting a redevelopment plan and if the citizens of Lodi desire to vote on the adoption

<sup>134</sup>

See discussion *in* Part II, Constitutional and Statutory Framework, *supra*.

of the Redevelopment Plan, the procedure set forth at Elections Code Section 9235, *et seq.*, may be followed to place this matter on the ballot. See also Response No. 2 to Writing A. Requiring a vote on the adoption of redevelopment could result in loss of a base roll, permanently reducing moneys that could become available for use within the Project Area.

May 28<sup>th</sup>, 2008

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To: City Council

Re: Written concerns regarding the Ordinance of the City Council of the City of Lodi Approving and adopting the redevelopment plan for the Lodi Community Improvement project.

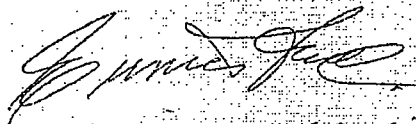
The project does not address the double dipping of using RDA funds and the estimated \$15.00 on city utility bills for Water and Sewage infrastructure replacement. The project language states, "improve project area public infrastructure system & provide a range of public infrastructure improvements". If RDA is paying for the infrastructure than how will a refund of the money's taken by the city from utility users be mitigated or refunded to the rate payer? This appears to be a clear case of double taxation. If I am already paying for infrastructure replacement than this RDA infrastructure improvement would appear to be only an excuse to have an RDA project.

With all the public projects proposed within this plan, how will the debt be paid off when public entities don't pay taxes or have tax increments? The plan does not define with detail an income generating project.

One of the mitigations to the vacant businesses in the EIR for the Super Wal-Mart was the RDA. The RDA would finance the remediation of blight, vacant businesses and derogation of neighborhoods from a Super Wal-Mart being built in Lodi. If the Plan is overturned with a referendum, will this stop future big box developments?

Please indicate these concerns in the public record of this draft ordinance. I am requesting that Council reject the above named proposed ordinance.

Respectfully,



EUNICE FRIEDERICH  
425 E OAK ST  
LODI, CA 95240



**Writing H:** Eunice Friederich, 425 E. Oak Street, Lodi, California 95240, letter received by the Lodi City Clerk May 28, 2008.

**Comment No. 1:**

*The project does not address the double dipping ~~of~~ using RDA funds and the estimated \$15.00 on city utility bills for Water and Sewage infrastructure replacement. The project language states, "improve project area public infrastructure system & provide a range of public infrastructure improvements".*

**Response No. 1:**

The Comment is vague as to the meaning of "double dipping."

The rates charged for water and wastewater infrastructure improvements are sized based on a 100 year (1% per year) replacement schedule. Adoption of the proposed Redevelopment Plan is expected to result in significant additional revenues (in the form of tax increment) available to assist in the construction of needed public improvements in the Project Area. The fact that funds are already being collected from rate payers in Lodi for water and sewage infrastructure replacement does not mean that additional funds will not benefit the Project Area—these additional revenues will enable the Agency to accelerate what is otherwise ~~an~~ extraordinarily long replacement schedule and provide public infrastructure improvements, resulting in the earlier completion of higher quality public improvements in the Project Area and/or an early termination of certain charges.

It should also be noted that, according to information provided by the City of Lodi, as of October 1, 2007, the wastewater service charges in Lodi are lower than comparable charges in Galt, Manteca and Tracy.<sup>135</sup>

**Comment No. 2:**

*If RDA is paying for the infrastructure then how will a refund of ~~the~~ money's taken by the city from utility users be mitigated ~~or~~ refunded to the rate payer? This appears to be a clear case of double taxation. If I am already paying ~~for~~ infrastructure replacement then this RDA infrastructure improvement would appear to be only an excuse to have an RDA project.*

**Response No. 2:**

No refund of the assessment referenced in Writing H is proposed, nor is a refund warranted (in that the moneys collected have been and are being expended for the identical public purpose and one which promotes the public health and safety). The money currently being collected in taxes and assessments by the City of Lodi is insufficient to pay the cost of necessary public improvements in the Project Area and the remediation of the groundwater contamination in the City. Adoption of the Redevelopment Plan will provide additional funds to the Redevelopment Agency, which will permit the Agency to assist in the remediation of the serious groundwater contamination in the Project Area as well as to pay for needed public improvements

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<sup>135</sup> See Exhibit L

which otherwise could not be provided by the City. The City currently lacks sufficient funds to provide these necessary services.

Adoption of the proposed Redevelopment Plan will not result in double taxation.

**Comment No. 3:**

*With all the public projects proposed within this plan, how will the debt be paid off when public entities don't pay taxes **or** have tax increments?*

**Response No. 3:**

Comment No. 3 appears to be based on the premise that when the Agency constructs public improvements or other public projects, this will result in **an** increase in the amount **of** real property which is exempt from taxes due to ownership by a public entity. This assumption is not necessarily accurate; public improvements contemplated by the Redevelopment Plan may and likely will be located within the current public right of way, or currently existing utilities easements (enacting the redevelopment plan does not change the layout of streets). The purpose of the Agency in acquiring property (from willing sellers) would be to recycle the property back into private ownership.

The Agency has an economic incentive to maintain the taxability of property within the Project Area.

**Comment No. 4:**

*The plan does not define with detail an income generating project.*

**Response No. 4:**

The point of the Comment is not clear. The proposed Redevelopment Plan is a guiding and planning document. Each actual project to be undertaken by the Agency pursuant to the proposed Redevelopment Plan will undergo practical **and** fiscal consideration by the Agency board and environmental review to the extent necessary and appropriate pursuant to the California Environmental Quality Act **and** other applicable statutes and regulations. The proposed Redevelopment Plan does not provide for specific spending or development actions.

**Comment No. 5:**

*One of the mitigations to the vacant businesses in the EIR for the Super Wal-Mart was the **RDA**. The **RDA** would finance the remediation of blight, vacant businesses and derogation of neighborhoods from a Super Wal-Mart being built in Lodi.*

**Response No. 5:**

Comment No. 5 is extremely vague and confusing. Nowhere in the Redevelopment Plan or any other document related to the Redevelopment Plan has the Agency expressed any interest in having a Super Wal-Mart.

**Comment No. 6:**

*If the Plan is overturned with a referendum, will this stop future big box developments?*

**Response No. 6:**

Big Box development, like other types of residential and commercial development, can occur without regard to whether a redevelopment project area is adopted. If the ordinance adopting the Redevelopment Plan is repealed in response to a referendum, it will not prevent the development of additional big box retail stores, car dealerships, or any other development within the Project Area or the City of Lodi.